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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140905757-6404-01]

RIN 0648-BE42

**Fisheries off West Coast States; Pacific Coast Groundfish Fishery Management Plan;
Commercial Sablefish Fishing Regulations and Electronic Fish Tickets**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise fishery monitoring and equipment requirements for all commercial groundfish fisheries, including a requirement for submitting electronic fish tickets in the limited entry fixed gear fisheries and open access fisheries. This proposed rule would revise administrative procedures for limited entry permits, providing greater flexibility and efficiencies for limited entry groundfish fishery participants. This proposed rule also would require vessels registered to Vessel Monitoring Systems (VMS) to make an initial VMS declaration. This proposed rule also would make administrative changes and clarifying edits to improve consistency of the regulations with past Pacific Fishery Management Council (Council) actions and with the Pacific Coast Groundfish Fishery Management Plan (FMP). This action is needed to improve monitoring and administration of the limited entry sablefish primary fishery and address unforeseen issues arising out of the evolution of commercial sablefish fisheries and subsequent regulations.

DATES: Comments on this proposed rule must be received by [*INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2016-0032, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2016-0032*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070; Attn: Gretchen Hanshew.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to William W. Stelle Jr., Regional Administrator, West Coast Region NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070 and to OMB by e-mail to *OIRA_Submission@omb.eop.gov* or fax to (202) 395-7285.

Electronic copies of the environmental assessment (EA) for this action may be obtained from <http://www.regulations.gov> or from West Coast Region's Groundfish web site:

<http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html>.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, 206-526-6147,
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SUPPLEMENTARY INFORMATION:

Purpose of Proposed Rule and Summary of Major Actions

Purpose of the Regulatory Action

The purpose of this proposed rule is to improve the timeliness and accuracy of sablefish catch reporting in the limited entry fixed gear fisheries and open access fisheries, to provide more flexibility and efficiencies for harvesters in the Shorebased Individual Fishing Quota (IFQ) Program and limited entry fixed gear fisheries, and to implement several administrative and clarifying changes to monitoring and permitting provisions of regulations for all of the limited entry and open access commercial groundfish fisheries on the West Coast.

Major Actions

This proposed rule contains eight major actions, along with related minor clarifications and non-substantive changes. The first action is a new requirement for electronic fish tickets to be submitted for all commercial landings of sablefish delivered to Washington, Oregon and California fish buyers. The second action would provide qualified vessel owners an opportunity to apply for an exemption to the ownership limitation of three permits in the limited entry sablefish primary fishery. The third action would allow a single vessel to be simultaneously (jointly) registered to multiple limited entry permits, one of which may have a trawl gear endorsement. The fourth action prohibits vessels that have been granted an at-sea processing

exemption for sablefish in the limited entry fixed gear fishery from processing sablefish at sea when that vessel is participating in the Shorebased IFQ Program. The fifth action would clarify that, consistent with FMP Amendment 6, sablefish catch in incidental open access fisheries is counted against the open access allocation, and is not deducted from the commercial harvest guideline. The sixth action would require any vessel that has a VMS registered with NMFS Office of Law Enforcement (OLE) to make a declaration with OLE. The seventh action would update and simplify equipment requirements for electronic fish tickets. The eighth action makes clear that prohibitions governing groundfish species taken in the limited entry fixed gear fishery should not prohibit taking more than the allowable quota, but rather, should prohibit taking and retaining. In addition, the action includes housekeeping changes that are intended to better align the regulations with defined terms, and to provide clarity and consistency between paragraphs.

Background

Authorities

The groundfish fisheries in the exclusive economic zone (EEZ) off the west coast of the United States are managed under the FMP. The FMP was prepared by the Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, section 801). Regulations implementing provisions of the FMP are located at 50 CFR Part 660, Subparts C through G.

Commercial Sablefish Fisheries

This proposed rule includes several actions that would revise regulations for commercial fisheries that harvest sablefish. Proposed regulatory changes would apply to the Shorebased IFQ

Program, the limited entry fixed gear fishery, which includes the limited entry sablefish primary fishery and the daily trip limit (DTL) fishery, and the open access fishery.

The Shorebased IFQ Program off the west coast operates from the northern border between the United States and Canada to Morro Bay, California. Each vessel that participates in this sector must have a federal limited entry groundfish permit with a trawl endorsement. Active management of the sector began in the early 1980's with the establishment of harvest guidelines and trip limits for several species, including sablefish. Sablefish is managed as an IFQ species in the Shorebased IFQ Program, and may be harvested by vessels registered to a trawl-endorsed limited entry permit. Vessels may fish their IFQ with trawl gear, or may fish with fixed gear under the program's gear switching provisions. Few changes to the Shorebased IFQ Program regulations are proposed through this rulemaking.

A federal limited entry groundfish permit is also required to participate in the limited entry fixed gear fishery. All limited entry fixed gear permits have at least one gear endorsement for longline gear and/or pot/trap gear. Permits may have multiple gear endorsements. In addition, limited entry fixed gear permits may have an endorsement to fish sablefish in the sablefish primary fishery.

Each sablefish-endorsed permit is associated with an annual share of the sablefish allocation to the limited entry fixed gear fishery. Sablefish-endorsed permits are assigned to Tier 1, 2, or 3. Each Tier 1 permit receives 1.4 percent, each Tier 2 permit receives 0.64 percent and each Tier 3 permit receives 0.36 percent of the sablefish allocation. Each year, these shares are translated into cumulative limits (in pounds), or tier limits, which can be caught anytime during the sablefish primary season.

Regulations allow for up to three sablefish-endorsed permits to be stacked on a single vessel. Permit stacking was implemented through FMP Amendment 14 in 2002 to increase the economic efficiency of the fleet and promote fleet capacity reduction. Stacking more than one sablefish-endorsed permit on a vessel allows the vessel to land sablefish up to the sum of the associated tier limits. However, permit stacking does not increase cumulative limits for any other species; cumulative limits for non-sablefish species apply on a per-vessel basis.

Fishing in the sablefish primary season takes place over a seven-month period from April 1 to October 31. Vessels may land their tier limits at any time during the seven-month season. However, once the primary season opens, all sablefish landed by a vessel fishing in the limited entry fixed gear fishery and registered to a sablefish-endorsed permit is counted toward attainment of its tier limit(s). Vessels registered to a sablefish-endorsed permit can fish in the limited entry fixed gear DTL fishery (e.g. under weekly and bi-monthly trip limits) from January 1 through March 31 and after the primary fishery. The sablefish primary fishery for a vessel closes once their tier limit(s) is caught or when the primary season closes October 31.

Groundfish may be taken and retained by vessels that are not registered to limited entry permits. These vessels are considered to be fishing in the open access fishery. Some vessels fishing in the open access fishery may be targeting groundfish species (e.g. open access sablefish DTL fishery). Other vessels may be targeting other species and retaining incidentally caught groundfish. Because there is no federal license limitation program for the open access fishery, the total number of participants in the open access fishery varies widely from year to year. Open access vessels can use a variety of fixed gears, including hook-and-line or pot/trap gear, longline, fishing pole, and vertical longline. Vessels that participate in the open access fishery and use

non-groundfish trawl (e.g. shrimp trawl) gear may also retain groundfish species in limited amounts.

Need for These Actions

Since FMP Amendments 6 and 14, the Council has recommended and NMFS has implemented over a dozen rulemakings and several FMP amendments directly and indirectly affecting commercial fisheries that harvest sablefish. These actions often did not revise all federal groundfish regulations, but were sector or fishery specific, species specific, or related to setting harvest levels or routine management measures for ongoing fisheries. Changes to regulations, evolution of both state and federal recordkeeping and reporting requirements, and unforeseen complications for vessels that participate in other fisheries in addition to the groundfish fishery, created a need for a variety of comprehensive updates, changes, and clarifications to federal groundfish regulations. The proposed action implements several changes that the Council recommended at different times and for a variety of reasons. The proposed action also includes several regulatory changes that are consistent with past Council recommendations and that add clarity and consistency both within the regulations and between the regulations and the FMP.

1. Electronic Fish Ticket Requirement for Sablefish Landings

General

NMFS is proposing a federal electronic fish ticket submittal requirement for all commercial groundfish landings that include sablefish. An electronic fish ticket is a web-based form used to send groundfish landing data to the Pacific States Marine Fisheries Commission (PSMFC). Electronic fish tickets are used to collect information similar to the information required in state fish receiving tickets or landing receipts (henceforth referred to as paper

tickets), but do not replace or change any state requirements. This requirement would improve timeliness and accuracy of catch data for monitoring harvest relative to applicable tier limits in the limited entry fixed gear sablefish fishery and trip limits in the limited entry fixed gear and open access DTL fisheries.

Once submitted, electronic fish tickets would immediately become part of a centralized database administered by the PSMFC, and landing data becomes available instantly to authorized users. Also, new electronic fish ticket requirements would include mandatory reporting of limited entry permit numbers for all limited entry fixed gear landings, allowing harvest of tier limits to be distinguishable on a per-permit basis. Depending on the state requirements, paper tickets may be mailed by fish dealers to the state agencies, transcribed into a database, reviewed and then submitted to the PSMFC for sector-specific catch summary reports. Limited entry permit numbers are not required to be reported on the paper tickets, so a variety of catch accounting business rules are followed. In some cases, it can take months for paper ticket harvest data to become available.

Since the start of the Shorebased IFQ Program in 2011, electronic fish tickets have been required for landing IFQ species. Electronic fish tickets have allowed vessel owners/operators, buyers and dealers, and fishery managers timely access to catch information for IFQ species. Many of the amendments in this proposed rule expand the required use of electronic fish tickets to the limited entry fixed gear and open access fisheries and are similar to those currently in place for the Shorebased IFQ Program. Electronic fish ticket requirements for the Shorebased IFQ Program are described in detail in proposed rules (75 FR 32994, June 10, 2010; 75 FR 53380, August 31, 2010) and in final rules (75 FR 60868, October 1, 2010; 75 FR 78344, December 15, 2010) for that program.

New Requirements for Limited Entry Fixed Gear and Open Access Fisheries

In September 2013, the Council initiated the sablefish permit stacking program review, which included consideration of improvements to catch accounting against the tier limits associated with limited entry fixed gear sablefish permits. At its June 2014 meeting, the Council recommended that limited entry fixed gear sablefish permit numbers be required on fish tickets in order to improve catch accounting against sablefish primary fishery tier limits. In addition, the Council also recommended that an electronic fish ticket be required by federal regulation for all commercial sablefish deliveries, including sablefish landings in both the limited entry fixed gear and open access fisheries. The purpose of these new requirements would be to improve the accuracy and timeliness of commercial groundfish landings data for all groundfish species, particularly sablefish. This proposed rule would require electronic fish tickets, with limited entry permit numbers recorded for limited entry fixed gear landings, to be submitted for groundfish deliveries that include any amount of sablefish. Per the Council's recommendation, the requirement to submit electronic fish tickets for sablefish landings would apply to first receivers of fish from limited entry fixed gear and open access vessels.

As in the Shorebased IFQ Program, this proposed rule makes the first receiver the person responsible for submitting the electronic fish ticket for a groundfish landing that includes sablefish. A first receiver is the person who receives, purchases, or takes custody, control, or possession of catch onshore directly from a vessel. The Shorebased IFQ Program uses the term "IFQ first receiver," and IFQ landings can only occur at IFQ first receivers that have been certified by NMFS with an IFQ first receiver site license. This proposed rule uses the more broadly defined term "first receiver," referring to any person, fish buyer or dealer that is receiving, purchasing, taking custody, control, or possession of a groundfish landing, and would

not require first receivers to have a first receiver site license unless they also receive IFQ landings.

The proposed rule would require first receivers to maintain hardware, software, and internet service such that electronic fish tickets can be submitted in a timely fashion via web-based forms. These equipment requirements for submitting groundfish electronic fish tickets are described in the preamble below, under the heading, **“7. Equipment Requirements for Electronic Fish Tickets.”**

The proposed rule uses terms that have specific meanings when used in other regulatory provisions governing electronic fish tickets. “Recorded” refers to any form of documentation of information that will later be required for submittal of the electronic fish ticket. “Submitted” refers to the act of sending the completed, final electronic fish ticket form via the web-based platform. When a ticket has been submitted, it cannot be withdrawn, but it can be revised, as needed. The proposed rule defines a “sablefish landing” as an offload that includes any amount of sablefish harvested in either the limited entry fixed gear or open access fishery.

The proposed rule includes electronic fish ticket requirements in order to facilitate complete, accurate and timely reporting. The proposed rule would prohibit transporting any groundfish from a sablefish landing away from the point of landing before the information that is required on the electronic fish ticket is recorded, and would prohibit processing, selling, or discarding any groundfish received from a sablefish landing that has not been accounted for on an electronic fish ticket. In addition, the electronic fish ticket must include a vessel identification number and a single limited entry permit number that the catch will be attributed to. Although the landing of sablefish is what would trigger the requirement to submit an electronic fish ticket,

all groundfish landed, including sablefish and non-sablefish groundfish species, must be recorded on an electronic fish ticket.

The proposed rule includes recordkeeping and reporting requirements for participants and first receivers in the limited entry fixed gear fishery (new language in 50 CFR 660.213) and in the open access fishery (new language in 50 CFR 660.313). The participants and first receivers must submit accurate information, must not submit false information, and must retain and make available any reporting records.

Information reported on an electronic fish ticket as envisioned in this proposed rule would be similar to that recorded on state-mandated paper fish ticket. However, these new requirements for first receivers of sablefish caught in limited entry fixed gear and open access fisheries are not intended to supersede or change any state requirements relative to recording, submitting or retaining paper fish tickets. Similar to current requirements for IFQ first receivers, this proposed rule includes a requirement that first receivers record the limited entry permit number if the vessel is landing sablefish in the limited entry fixed gear sablefish primary fishery or the limited entry fixed gear DTL fishery.

With the new electronic fish tickets required in the proposed rule, vessel operators would have more timely and accurate landing information available to them by accessing electronic fish ticket data via their first receiver. First receivers would be able to view summaries of electronic fish ticket data that they have submitted for a vessel and provide those summaries to the vessel operator or other authorized personnel. Under this proposed rule, first receivers would be obligated, per proposed regulations at 50 CFR 660.213, to obtain the signature of the vessel operator or owner on board when recording and submitting electronic fish ticket information and

they are required to make that information available per proposed regulations at 50 CFR 660.212(d).

First receivers would have the ability to provide the vessel operator (or other authorized personnel) a summary of sablefish landings to date either on a vessel-specific basis or on a limited entry permit-specific basis. This same information is available to users with confidentiality agreements on file with PSFMC (e.g. OLE and fishery managers). Confidential electronic fish ticket data would not be publically available.

Discussion of additional, applicable requirements for information to be supplied in electronic fish tickets and confidentiality requirements for electronic fish ticket data is also included under the following heading, “*New Requirements for the Limited Entry Fixed Gear Sablefish Primary Fishery.*”

New Requirements for the Limited Entry Fixed Gear Sablefish Primary Fishery

A vessel may stack up to three limited entry fixed gear sablefish permits. Each permit has an associated annual sablefish quota, or tier limit that may be harvested during the limited entry fixed gear sablefish primary fishery, which lasts from April 1 through October 31, or when an individual vessel’s tier limit(s) is (are) harvested.

The Council recommended electronic fish tickets for non-IFQ fisheries, in part, to improve catch monitoring of sablefish landed and counted against tier limits, and to make this catch information available to vessel operators, law enforcement, and fishery managers. As previously explained, electronic fish tickets would require reporting the limited entry permit number that authorizes the sablefish landing. For vessels fishing in the sablefish primary fishery, the limited entry permit number of only one sablefish-endorsed permit would be reported per ticket, even if the vessel has multiple sablefish-endorsed permits registered to it. Rather than

relying solely on their own recordkeeping, or incomplete/delayed paper ticket summaries, as under current fish ticket systems, vessel operators would have immediate access to accurate, summarized landings data. This would improve confidence in the accuracy of annual landings estimates and ensure that vessel owners, first receivers, OLE, and fishery managers all have access to the same summarized harvest data. The electronic fish tickets would allow immediate availability of accurate summary data that can be organized to show total landings of sablefish to date against the annual tier limit(s) associated with that vessel. Timely and accurate data provided by electronic fish tickets would allow fishers to appropriately craft their fishing strategies, provide timely alerts that allow law enforcement officials to investigate potential tier limit overages, and give fishery managers the ability to track and react to the current catch of sablefish relative to annual fishery allocations. Thus, this proposed rule's provision requiring electronic fish tickets for the sablefish primary fishery would directly improve catch accounting against tier limits, and would make that information available to industry, enforcement and fishery managers in a timely manner.

The Council discussed the possibility of using the vessel accounts system in place for the Shorebased IFQ Program as a model for creating accounts for vessels fishing in the sablefish primary fishery. However, the Council did not include a vessel or permit account system as part of its proposed action. Vessels fishing in the limited entry fixed gear sablefish primary fishery are only monitoring one species and two sources of quota "currency:" the annual tier limit associated with the limited entry sablefish permits registered to the vessel, and debits against that tier limit from proposed electronic fish tickets. This monitoring is not as complex as what is required for the Shorebased IFQ Program. Based on this, vessels fishing in the limited entry fixed gear sablefish primary fishery would not have vessel accounts as vessels fishing in the

Shorebased IFQ Program do. Instead, vessels would estimate their tier limit balances with information coming directly from the electronic fish ticket system, provided to them by first receivers. This process is anticipated to meet the catch accounting needs of industry, and to meet the monitoring and catch accounting needs of the Council, fishery managers, and enforcement.

Current regulations and catch accounting procedures do not allow vessel operators to choose which sablefish permit's tier limit to which their catch is applied. Under the provisions of this proposed rule, electronic fish tickets would allow vessel operators to assign portions of their sablefish landing among the sablefish permits registered to their vessel, as desired. To achieve this, multiple electronic fish tickets would be submitted for a single sablefish landing. When a vessel registered to multiple sablefish endorsed permits makes a sablefish landing, all catch must be recorded and submitted on electronic fish tickets, as described above, under the heading, *“New Requirements for Limited Entry Fixed Gear and Open Access Fisheries.”*

In this proposed rule, a landing of sablefish caught in the limited entry fixed gear sablefish primary fishery may be reported across multiple electronic fish tickets, with one of the limited entry sablefish permit numbers reported on each ticket. Following is an example of two available options in the case of a vessel, which is registered to two sablefish endorsed permits (Permits 1 and Permit 2) and which makes a sablefish landing of 4,500 pounds:

Option A: The vessel operator may choose to attribute all of those pounds to Permit 1 by recording that permit number on one electronic fish ticket, resulting in a single electronic fish ticket counting 4,500 pounds towards the annual tier limit associated with Permit 1.

Option B: The vessel operator may choose to apportion the sablefish landed between two permits, as long as the annual tier limits are not exceeded. Using two fish tickets, the first electronic fish ticket could record 3,000 pounds to Permit 1 and the 3,000 pounds would

count toward the annual tier limit associated with Permit 1, while the second electronic fish ticket could record 1,500 pounds to Permit 2 and the 1,500 pounds would count towards the annual tier limit associated with Permit 2.

Regardless of the number of electronic tickets submitted, the sum total of annual sablefish landings must not to exceed the annual tier limits associated with the limited entry permits registered to that vessel, as currently established in regulations. It would be a violation of the provisions of this proposed rule to submit an electronic fish ticket for a sablefish landing in the sablefish primary fishery without recording the sablefish-endorsed limited entry permit number.

The improvements to catch monitoring associated with this proposed rule's electronic fish ticket requirement would allow the removal of the current 24-hour rule of separation of primary and DTL landings. (The regulatory text of this proposed rule removes this current requirement at 50 CFR 660.232(a)(3) and revises text for that section.) A vessel would be allowed to apportion a landing against the remainder of its tiers (thereby closing the sablefish primary fishery for that vessel, per 50 CFR 660.231(b)), and the rest of the sablefish landed may be submitted on a separate electronic fish ticket and would count against applicable limited entry fixed gear DTL trip limits. This allows vessels to count sablefish landed in excess of their tier limits as DTL landings. Thus, this proposed rule would alter the process for concluding a vessel's primary season and transitioning to the DTL fishery. This would allow vessels to harvest the entirety of their tier limits, but would not allow for a double-dipping effect, as the vessel would still be subject to the same sablefish DTL cumulative limits as they would have been under the 24-hour separation of primary and DTL landings. In addition, the proposed rule would also replace the current 300-pound threshold, beyond which the Pacific Fisheries Information

Network (PacFIN) considered any additional sablefish landed as counting against applicable DTL limits. That threshold effectively stranded up to 300 pounds of unharvested sablefish in the vessel's transition from primary to DTL sablefish fisheries.

The proposed reporting requirements for electronic fish tickets would include a signature from the owner on board of either a printed copy of the electronic fish ticket or the dock tickets for any landing of sablefish in the limited entry fixed gear sablefish primary fishery, unless exempted from owner-on-board requirements (50 CFR 660.231(b)(4)).

2. Exemption to Limited Entry Sablefish Permit Ownership Limitation

Current regulations (50 CFR 660.25(b)(3)(iv)(C)) state that no individual person, partnership, or corporation in combination may have ownership interest in or hold more than three permits with sablefish endorsements either simultaneously or cumulatively over the primary season (hereby referred to as "ownership limitation"). This ownership limitation was intended to prevent concentration of harvest privileges. However, this restriction has led to unforeseen complications because many persons, partnerships and corporations have harvest privileges in both the Alaska IFQ sablefish fishery and the Pacific coast sablefish fishery.

The Alaska sablefish IFQ fishery regulations require that a sablefish quota owner must have at least part ownership in the vessel that will fish their quota. Some of these vessels also participate in the limited entry fixed gear sablefish fishery off the Pacific coast. In such situations, any sablefish permit registered to that vessel would count toward the three-permit ownership limitation of the person, corporation, or partnership with part ownership of the vessel.

In September 2013, the Council initiated the sablefish permit stacking program review, which included consideration of the current three-permit ownership limitation (also referred to by the Council as an own/hold rule or own/hold control limit) and explored a regulatory

amendment to provide relief to industry members who were limited because of participation in the Alaska sablefish IFQ fishery. At its June 2014 meeting, the Council recommended a process by which vessel owners who meet certain qualifying criteria may petition NMFS for a limited exemption to the ownership limitation.

The Council recommended this exemption to allow owners of a vessel registered to limited entry fixed gear sablefish permits, who are also part-owners of a vessel fishing sablefish IFQ in Alaska, to seek an ownership limitation exemption. The exemption, if granted, would mean that limited entry sablefish permits registered to a vessel (in which they have an ownership interest) would not count toward their ownership limit of three permits.

In this action, NMFS proposes new language at 50 CFR 660.25(b)(3)(iv)(D) to provide for such a process for issuance of an exemption to the ownership limitation. The proposed language includes qualifying criteria, the application process, and a description of the circumstances under which the exemption would become null and void. The application process would include submission of a new form, which would be developed by NMFS and would collect the ownership interest information needed to confirm that the vessel owner meets the exemption criteria. This form would collect vessel ownership interest information, broken down into percentages, and would be similar to the form used in the Shorebased IFQ Program. NMFS would use the information from the form submitted by the applicant to make an initial administrative determination (IAD) on the merits of the application. Applicants would follow the permit appeals process under existing regulations at 50 CFR 660.25(g) regarding appeal of the IAD, if needed.

Following the suggestion of a June 2014 NMFS Report (Agenda Item F.6.b, NMFS Report 2; http://www.pcouncil.org/wp-content/uploads/F6b_NMFS_Rpt2_JUNE2014BB.pdf),

the Council recommended that the qualifying criteria include a requirement that the vessel owner must own limited entry sablefish permit(s). However, upon further exploration, NMFS found that some of the potential beneficiaries of this ownership limitation exemption do not own limited entry sablefish permits, but accrue counts against the ownership limitation only by owning a vessel to which limited entry sablefish permits are registered (i.e. they are vessel owners, not permit owners). Under the qualifying criteria initially discussed by NMFS and the Council in June 2014, those individuals would not qualify for the ownership limitation exemption.

Based on the overall context of the Council recommendations for an ownership limitation exemption, NMFS concludes that the Council meant for this exemption to apply to any vessel owner that has been negatively affected by ownership limitation provisions because of their interest in the Alaska sablefish IFQ fishery, even if a vessel owner did not have an ownership interest in a permit. Therefore, at § 660.25(b)(3)(iv)(C)(I) regarding qualifying criteria, this proposed rule does not include the phrase “ownership interest in a sablefish-endorsed limited entry permit.” This proposed rule would allow a vessel owner who meets all other criteria, but does not own or have ownership interest in a sablefish-endorsed permit, to qualify for the ownership limitation exemption. NMFS is seeking public comment from affected industry on whether or not the final rule should include the phrase, “ownership interest in a sablefish-endorsed limited entry permit,” in the qualifying criteria language.

NMFS is also seeking comment from the affected industry on whether to expand the qualifying criteria to include the Pacific halibut IFQ in Alaska. It is possible that, due to similar owner-on-board requirements, participation in the Pacific halibut IFQ fishery in Alaska may also prompt the need for a sablefish ownership limitation exemption.

The proposed rule would allow the owner of a vessel registered to a sablefish endorsed limited entry permit (i.e. vessel owner) to apply for an exemption to the three-permit ownership limitation at any time. NMFS would issue an IAD within 60 days of receipt of a complete application. Under this proposed process, NMFS suggests that the application for an ownership limitation exemption be made by February 1, so that an IAD may be reached before the start of the primary sablefish season on April 1. The reason for this is that the ownership limitation exemption would not waive the cumulative ownership limitation. This is because if a vessel owner were to start the primary sablefish season on April 1 at or above the three-permit limit, an exemption granted later in the season would not exempt the owner's prior history.

The Council recommended that "the exemption would remain in place so long as there are no changes to vessel ownership." In order to reduce the administrative burden for NMFS and vessel owners, the Council did not recommend an annual renewal of the exemption. Instead, the Council recommended that a change in vessel ownership would require action. However, NMFS notes that vessel ownership is only one of the components of the qualifying criteria that the Council recommended. Therefore, at § 660.25(b)(3)(iv)(D)(3), the proposed rule states that once a vessel owner has been granted an exemption from the ownership limitation, that exemption would remain in place so long as the vessel owner that was granted the exemption continues to meet the qualifying criteria. Should the vessel owner's circumstances change such that they no longer meet the qualifying criteria, the exemption would automatically become null and void thirty days after the change in circumstances. Consistent with other exemptions issued by NMFS, if NMFS at any time finds the vessel owner no longer meets the qualifying criteria, NMFS will notify the vessel owner that they are not compliant with the ownership limitation restriction. The vessel owner may re-apply for an ownership limitation exemption at any time if they meet the

qualifying criteria. NMFS is seeking public comment from affected industry regarding proposed regulations for invalidation of the exemption at § 660.25(b)(3)(iv)(D)(3).

The Council also recommended a limitation on the number of exemptions that may be issued to a vessel owner in order to maintain ownership limitations for individuals that own many vessels. As recommended by the Council, NMFS is proposing that the exemption would allow a vessel owner to seek an exemption for sablefish permits registered on up to two vessels.

3. Joint Registration

Originally, the license limitation program (LLP), implemented through Amendment 6 to the FMP (see the EA under **ADDRESSES** for more information on the LLP), allowed vessels to register both a trawl and fixed gear (longline and fishpot) endorsed permit at the same time. Subsequently, regulations were modified and no longer allow vessels to register multiple limited entry permits unless the permits are sablefish-endorsed and stacked for use in the limited entry fixed gear sablefish primary fishery. This restriction was put in place to keep trawl and fixed gear fisheries temporally separated to meet enforcement and monitoring needs. In 2004, a vessel monitoring program was implemented that allowed vessels to identify which fishery they were participating in through a declaration system. As part of FMP Amendment 20 trailing actions, in April 2012 the Council recommended that vessels registered to a limited entry trawl permit be allowed to simultaneously register to a limited entry fixed gear permit, also called “joint registration.” In this proposed rule, NMFS proposes to allow joint registration while clarifying how fisheryspecific regulations would still apply to vessels that are jointly registered.

Joint registration would allow vessels that are jointly registered to fish in the Shorebased IFQ Program and the limited entry fixed gear fishery with simply a change in VMS declaration.

Existing VMS and declaration systems meet monitoring and enforcement needs under the joint registration language of this proposed rule.

Joint registration would be permitted in one of two configurations:

- 1) Configuration A: One trawl permit and one, two, or three sablefish endorsed permits.
- 2) Configuration B: One trawl permit and one limited entry fixed gear permit.

Configuration A would continue to allow stacking of limited entry fixed gear sablefish permits, but would also allow a trawl endorsed permit to be jointly registered to the same vessel simultaneously. Under this configuration, a vessel would be able to fish in the Shorebased IFQ Program, the limited entry fixed gear fishery, and the limited entry fixed gear sablefish primary fishery without having to transfer any of its limited entry permits. Configuration B would allow a single trawl permit and a single limited entry fixed gear permit to be jointly registered to the same vessel simultaneously. Under this configuration, a vessel would be able to fish in the Shorebased IFQ Program and the limited entry fixed gear fishery without having to transfer a limited entry permit. Under this proposed rule, registering permits to a single vessel, simultaneously in either one of the configurations shown above, would be considered “joint registration.”

Joint registration is separate and distinct from sablefish-endorsed permit stacking. A certain, specific set of regulations apply to the vessel that has stacked sablefish permits and is fishing in the sablefish primary fishery. In contrast, joint registration alone is not associated with a specific set of regulations or a single fishery. Joint registration would allow a vessel to switch between limited entry fishery sectors (e.g. IFQ and limited entry fixed gear) with a change in VMS declaration. Joint registration is not a fishery. The fishing regulations that would apply to the jointly registered vessel depends on which fishery that vessel declared into. This rulemaking

proposes specific language pertaining to the permitting actions, rules and restrictions of joint registration at 50 CFR 660.25(b)(4)(iv).

Some additional restrictions would apply if a vessel participates in multiple limited entry fisheries in the fishing year. These situations and the applicable restrictions would be described in crossover provisions at § 660.60(h)(7). For example, if a vessel participates in both the Shorebased IFQ Program and the limited entry fixed gear fishery during a two-month cumulative limit period, then the smallest trip limit for non-IFQ species applies. Jointly registered vessels that want to fish in the open access fishery would have to comply with crossover provisions that apply to both trawl permits and limited entry fixed gear permits.

At the November 2011 Council meeting the Enforcement Consultants (EC) discussed the increased importance of the declarations system, and the EC strongly encouraged industry leaders to impress upon their membership the importance of maintaining a proper declaration that accurately reflects their fishing activity. Accuracy in the declaration process is both required by law and vital to the analysis of fishing effort by resource managers. Implementation of joint registration makes a small change to the VMS declaration requirements at § 660.13(d)(5)(ii). Current VMS declaration regulations only require a new declaration report when a vessel would use a different gear type than the gear most recently declared. However, since a jointly registered vessel may use non-trawl gear to fish in both the Shorebased IFQ Program and the limited entry fixed gear fishery, clarifying regulations are added to require a new declaration if the vessel will fish in a fishery other than the fishery most recently declared. This edit is intended to explicitly require declarations be made when a jointly registered vessel switches between the Shorebased IFQ Program and the limited entry fixed gear fishery, regardless of the gear type used when participating in that fishery. While the current list of vessel declarations are generally gear- and

fishery-specific, this new requirement at § 660.13(d)(6)(ii) makes it clear that a change in declaration must be filed to legally switch between fisheries. Joint registration would not preclude declaring more than one gear type, if allowed under current regulations at § 660.13(d)(6)(iv).

This proposed rule clarifies the definition for “base permit” at § 660.11 such that the use of a base permit only applies for sablefish endorsed permits. This does not change how the base permit concept has been applied to vessels registered to multiple limited entry sablefish permits. When a trawl endorsed permit and one or more sablefish endorsed permits are jointly registered, trawl endorsed permits must meet the current vessel length endorsement requirements at § 660.25(b)(3)(iii)(B). The concept of a base permit only applies to stacked sablefish endorsed permits.

Cumulative limits (e.g. daily, weekly, bi-monthly limits, etc.) continue to apply to the vessel, regardless of the number of permits registered to that vessel. Registering a vessel to more than one limited entry permit under joint registration does not entitle the vessel to more than one cumulative limit. Joint registration would not allow a vessel to register multiple limited entry fixed gear permits (not sablefish endorsed) along with the trawl endorsed permit.

Registering a vessel to a limited entry permit with a specific endorsement often triggers certain requirements in the groundfish regulations. Joint registration is not intended to change fishing operations of groundfish fisheries or change requirements that are applicable to vessels because of the type of the endorsement(s) on the limited entry permit to which they are registered, unless otherwise described above.

4. Restrictions on At-Sea Processing of Sablefish

Processing of groundfish at-sea is prohibited for vessels fishing in the Shorebased IFQ Program or limited entry fixed gear fishery, unless exempted from that prohibition. One such exemption applies to certain vessels fishing in the limited entry fixed gear sablefish primary fishery. Those exempted vessels may freeze sablefish at-sea during the limited entry fixed gear sablefish primary fishery.

When trawl rationalization was implemented in 2011, the Council recommended that at-sea processing of groundfish in the Shorebased IFQ Program be prohibited, with limited exemptions. Regulations at § 660.112 (b)(1)(xii) prohibited at-sea processing of groundfish, and also listed the exemptions that had been granted to date, including the exemption to the prohibition of at-sea processing in the sablefish primary fishery. As written, those regulations grant vessels with an exemption to the prohibition of at-sea processing in the sablefish primary fishery an exemption from the at-sea processing prohibition when fishing in the Shorebased IFQ Program. However, NMFS interpreted regulations at § 660.25(b)(6)(i) to only allow the sablefish at-sea processing exemption when the vessel is registered to a sablefish-endorsed limited entry permit.

Under current regulations, a vessel may not register a trawl-endorsed permit and a sablefish endorsed permit at the same time, so they cannot take advantage of the exemption at § 660.112(b)(1)(xii)(B). Therefore, the exemption at § 660.112(b)(1)(xii)(B) cannot currently be used by vessels participating in the Shorebased IFQ Program; qualifying vessels that may freeze sablefish at-sea in the sablefish primary fishery are not allowed to freeze sablefish at-sea when fishing in the Shorebased IFQ Program. However, under this rule's proposed joint registration language, a vessel would be able to register to a trawl endorsed and a sablefish endorsed limited

entry permit simultaneously. If the exemption at § 660.112(b)(1)(xii)(B) is not removed, joint registration could allow vessels with an exemption from the at-sea processing prohibition for the sablefish primary fishery to also process sablefish at sea in the Shorebased IFQ Program.

At its April 2012 meeting, the Council recommended prohibiting the freezing of sablefish at-sea when caught in the Shorebased IFQ Program, regardless of whether the vessel has an exemption for the limited entry fixed gear fishery. The Council recommends this change to regulations to prevent the single vessel that holds a sablefish at-sea processing exemption to process sablefish at-sea in the Shorebased IFQ Program, a fishery in which it had no prior history. NMFS is therefore proposing to remove the exemption to the prohibition of at-sea processing (at § 660.112(b)(1)(xii)(B)) that extended the limited entry fixed gear exemption in § 660.25(b)(6)(i) to vessels fishing sablefish in the Shorebased IFQ Program. Also, in light of joint registration, a clarifying sentence would be added to § 660.25(b)(6)(i), stating that the at-sea processing exemption only applies to at-sea processing of sablefish caught in the limited entry fixed gear sablefish primary fishery.

During development of these proposed regulations, NMFS noted that a similar situation as the one described above may occur when a vessel exempted from at-sea processing prohibitions of non-whiting groundfish in the Shorebased IFQ Program could utilize that exemption when fishing in non-IFQ fisheries. NMFS interprets the regulations to mean that the vessel must be registered to a limited entry trawl permit to qualify for this exemption. With joint registration, it may need to be clarified that the exemption only applies to processing non-whiting groundfish caught in the Shorebased IFQ Program. NMFS is seeking public comment on whether a clarifying sentence could be added to § 660.25(b)(6)(ii), stating that the at-sea

processing exemption described there only applies to at-sea processing of non-whiting groundfish caught in the Shorebased IFQ Program.

5. Sablefish Allocations North of 36° N. lat.

The allocation structure for sablefish north of 36° N. lat. was established in FMP Amendment 6. In April 2009, the Council recommended final preferred intersector allocations for groundfish species under Amendment 21. The Council and NMFS recommended that no change be made to the Amendment 6 allocation structure for sablefish. However, FMP Amendment 21 and its implementing regulations slightly changed the process for allocating sablefish north of 36° N. lat. (75 FR 60868, October 1, 2010). In this action, NMFS is proposing regulations to align sablefish north of 36° N. lat. allocations with the Amendment 6 allocation structure, as recommended by the Council in 2009.

Under FMP Amendment 6, harvest in the incidental open access fishery was deducted from the open access allocation after the limited entry/open access allocation occurred. Amendment 21 changed that process and deducts sablefish for the incidental open access fishery before the limited entry/open access allocation is made, similar to how the tribal fishery and scientific research deductions were made for other species. While this is consistent with how other groundfish species were treated under Amendment 21, it was inconsistent with Amendment 6 and the Council's intent. As clarified by the Council with Amendment 21-1, it was not the Council's intent to have Amendment 21 supersede the Amendment 6 allocation structure for sablefish north of 36° N. lat. In 2014, the Council revised figure 6-1 of the FMP to make it consistent with Amendment 6 and the Council's intent.

However, at that time, regulations at § 660.55(h) were mistakenly left unrevised. In this action, NMFS proposes revising the text description of the sablefish north of 36° N. lat.

allocation structure to reflect the Council's intent to maintain the Amendment 6 allocation structure and to bring the regulations at § 660.55(h) into consistency with the FMP. Proposed regulatory changes at § 660.55(h)(2) would deduct the metric tonnage for scientific research and recreational fisheries before the limited entry/open access split, but would no longer deduct the metric tonnage for the incidental open access fisheries during this step. Proposed regulations would deduct the metric tonnage for incidental open access fisheries from the open access allocation after the limited entry/open access split.

6. VMS Declarations for Vessels Registered to a VMS Unit

In 2004, the Council and NMFS implemented a vessel monitoring program. Since 2004, all commercial fishing vessels that take and retain groundfish in federal water, or transit through federal water with groundfish on board are required to have a working VMS. The VMS, along with a system of fishing declaration reporting requirements, allows for monitoring and enforcement of areas closed to fishing. With this program, NMFS type-approved hardware and software, or "units," were installed on vessels in order to meet these new program requirements for the groundfish fishery. A variety of units were available for purchase, and vessel owners/operators could seek reimbursement for the cost of the units. When a VMS unit is installed on a vessel, it is registered with NMFS OLE and catalogued. There are a number of VMS units that have registered with OLE but have never made a fishing declaration, as required by regulations at § 660.13(d).

At its June 2013 meeting, based on advice from their EC, the Council recommended that a declaration report be required for all vessels registered to a VMS unit, and that a declaration of "other" may be appropriate if the activity they will be doing is not fishing (e.g. serving as a chartered vessel conducting scientific research). Therefore, in this action, NMFS is proposing

regulation changes at § 660.13(d) that would require all vessels registered to a VMS unit to submit a declaration report. Obtaining a declaration report from these vessels will give OLE the information necessary to monitor the activities of these vessels relative to the applicable regulations.

Proposed regulations require any vessel operator upon registration of a VMS unit with NMFS OLE to make a declaration report regardless of fishing activity. This requirement would also apply to vessels that have already registered a VMS unit with NMFS OLE, but have not made a declaration report. OLE may contact a vessel operator and request that a declaration report be made. In such a circumstance, the proposed regulations would obligate the vessel operator to make a declaration report.

Also, consistent with the Council's June 2013 recommendations, NMFS proposes revising the declaration of "other gear" at § 660.13(d)(5)(iv)(A)(24) to "other" to encompass a vessel's on the water activities that may not be fishing (e.g. scientific research activities). Vessels registered to a VMS unit would be required to make a declaration, regardless of fishing activities. Under proposed regulations, NMFS anticipates they may make a declaration of "other" if they are not fishing.

NMFS also proposes that OLE will default a vessel's declaration to "other" if they are unable to contact the vessel operator with whom the VMS unit is associated. As required by current regulations, the vessel operator must update the declaration when they meet the requirements to do so.

7. Equipment Requirements for Electronic Fish Tickets

Under current regulations at § 660.15(d), submission of electronic fish tickets must be done on personal computers with software that meets specific NMFS requirements. The data is

entered into the computer system. Then the information is transmitted in batches to PSMFC. The only step in the process that requires an internet connection is when data sets are transmitted to PSMFC.

A new interface has been developed that uses the internet for both entry and submission of electronic fish ticket data. The new, web-based interface no longer requires the person submitting the electronic fish ticket to do so from a computer equipped with specific, NMFS-approved software. Instead, the only requirement for the web-based interface would be a hardware device (computer, tablet, smartphone, etc.) with a web browser or other software (e.g. application) and an internet connection.

Consistent with the Council's June 2014 recommendations to expand the required use of electronic fish tickets to the limited entry fixed gear and open access fisheries, NMFS is proposing updates to equipment requirements pertaining to electronic fish tickets.

Current electronic fish ticket users (e.g. IFQ first receivers) are already using this web-based interface, and those first receivers affected by the new requirements would be using the web-based interface. The changes proposed to regulations at § 660.15(d) would reflect the move to a web-based electronic fish ticket for all first receivers, those that are receiving IFQ landings and those that would be receiving sablefish landings in limited entry fixed gear and open access fisheries under proposed electronic fish ticket regulations. Note that an internet connection would now be necessary for all steps in submission of an electronic fish ticket, from creating the new ticket through submission. To reflect these changes, the definition of "electronic fish ticket" at § 660.11 would also be revised to reflect the web-based form that would be used to send electronic fish ticket information to the PSMFC.

8. Prohibitions Regarding “Take and Retain”

When the Council and NMFS implemented Amendment 14 to the groundfish FMP, which established the sablefish primary fishery, regulations needed to clarify that vessels were still only allowed a single cumulative limit of sablefish when fishing outside of the primary sablefish season (66 FR 30869, June 8, 2001). Regulations were promulgated that prohibited taking more than a single cumulative trip limit. NMFS is proposing replacing “taking, retaining” with “taking and retaining,” consistent with the Council’s recommendations under Amendment 14.

There is a difference between “taking” fish and “taking and retaining” fish during fishing activities. “Take” is defined in MSA regulations at § 600.10 as any activity that results in killing fish or bringing live fish on board. “Retain” is also defined at § 600.10 and means to fail to return fish to the sea after a reasonable opportunity to sort the catch. In commercial groundfish fisheries, “trip limits” (defined at § 660.11) are used to specify the maximum amount of a fish species or species group that may legally be taken and retained, possessed, or landed (per vessel, per time period, etc.).

Amendment 14 promulgated regulations that prohibited vessels from taking more than a single trip limit in the limited entry fixed gear DTL fishery (at § 660.323, which was later redesignated as § 660.212). The preamble to Amendment 14 explained that adding this prohibition was intended to make it clear that, even though the DTL fishery and the primary fishery could both occur during the same time period (e.g. April 1 through October 31), vessels in the DTL fishery would be restricted by applicable trip limits.

Current regulations at §§ 660.12 and 660.212 prohibit any vessel from taking more than a single cumulative trip limit, unless they are fishing in the sablefish primary fishery. The

exception is consistent with regulations at § 660.231 that describe how, when a vessel is fishing on stacked sablefish endorsed permits, it can take more than one cumulative limit of sablefish because they are fishing on more than one tier limit. However, the prohibition, as written, needs to be revised. Vessels in commercial groundfish fisheries, except the sablefish primary fishery, should not be prohibited from “taking” more than a single cumulative trip limit. For those fisheries, a prohibition on “taking and retaining” more than a single cumulative trip limit is more appropriate, and “take, retain” is replaced with “take and retain.”

This change is appropriate for three reasons. First, in a mixed stock fishery, it is impracticable to eliminate “take” of a single species or species group while still allowing access to species or species groups that can sustain higher harvest levels. Second, a prohibition of “take and retain” is more enforceable. When boarding a vessel, enforcement agents will not always be able to measure the total amount of fish taken, as some could have been discarded. However, it is possible to quantify the number of fish on board the vessel in order to evaluate if more fish than the applicable trip limit have been “taken and retained.” Third, it was not the intent of FMP Amendment 14, or any subsequent promulgation of “take, retain,” prohibitions, to prohibit “taking” more than a single trip limit of a groundfish species or species group.

It is for these reasons that groundfish trip limits apply when a species or species group is “taken *and retained*.” To better align prohibitions for enforcing trip limits with the definition of “trip limit,” to improve enforceability of trip limit prohibitions, and to bring consistency to regulations that apply to commercial groundfish fisheries, prohibitions at §§ 660.12(a)(6), 660.212(a)(2), and 660.212(d)(1) and (2) are proposed to be revised from “take, retain” to “take and retain.”

9. Related Minor Clarifications and Non-Substantive Changes

There are several legacy regulations that describe methodologies used for decisions and exemptions regarding limited entry permit endorsements (at § 660.25(b)(3)) and at-sea processing exemptions (at § 660.25(b)(6)) that have expired. Therefore, NMFS is proposing to remove them. Paragraph § 660.25(b)(3)(iv)(B) describes a one-time process for the issuance of sablefish endorsements and tier assignments. That process concluded in 1998. Proposed revisions to paragraphs § 660.25(b)(6)(i) and (ii) introductory text would make it clear that the at-sea processing exemptions described there were extended to industry on a one-time basis and can no longer be sought. The sablefish at-sea processing exemption could not be issued after 2006 and the non-whiting groundfish at-sea processing exemptions could not be issued after 2012. In addition to these revisions described above, additional expired regulations at § 660.25(b)(6)(ii)(A) through (C) would be removed because they no longer describe current regulatory activities and are not relevant to ongoing administrative or fishing practices.

Regulations at § 660.55(f) describe catch accounting methodologies for groundfish species. Paragraph § 660.55(f)(1) describes how catch accounting is done for species with trawl/nontrawl allocations. One of the cross-references in § 660.55(f) refers to catch accounting in limited entry and open access fisheries, or nontrawl fisheries. The cross-reference refers to § 660.55(f)(2), however that paragraph describes catch accounting procedures for Pacific whiting. The cross-reference should refer to § 660.55(f)(1)(ii), where catch accounting for nontrawl fisheries is described. Therefore, this rule proposes to revise the cross reference at § 660.55(f) from “§ 660.55(f)(2)” to “§ 660.55(f)(1)(ii).”

In this action, edits are made to regulations at § 660.60(h)(7)(i) and (ii)(A) to clarify that trip limit crossover provisions do not apply to IFQ species for vessels declared into the

Shorebased IFQ Program. Those species are managed with IFQ, and therefore trip limit crossover provisions in these paragraphs do not apply.

To improve consistency, this action would also make clarifying edits to regulations at § 660.60(h)(7)(ii)(B)(1) and (2) to replace the word “participate” with the defined term “fish” and to remove redundant text by changing “...in the open access fishery, described at part 660, subpart F, with open access gear...” to “...with open access gear...” Open access gear, as defined at § 660.11, can only be used in the open access fishery. It is redundant to refer to both the open access fishery and open access gear.

The trawl fishery prohibitions at § 660.112(a)(3)(i) make it illegal to intentionally submit false information. By definition, a false statement is an untrue statement knowingly made with the intent to mislead, therefore the term “intentionally” in the existing prohibition is unnecessary. This proposed rule revises the prohibition by deleting the word “intentionally.” This language is intended to work coincident with regulations that require submission of final and accurate information on electronic fish tickets, and with electronic fish ticket regulations that require errors to data, when found, to be corrected via a revision to the electronic fish ticket.

Regulations for revising electronic fish ticket submissions, at § 660.113(b)(4)(iii), would be modified to clarify that the only way to fix an error in an electronic fish ticket submission is to resubmit a revised electronic fish ticket. In other words, if an error is found in an electronic fish ticket submission, it cannot be remedied by submitting any other record besides an electronic fish ticket. Proposed regulations at § 660.113(b)(4)(iii) change “may be revised” via electronic fish ticket to “must be revised” via electronic fish ticket.

A clarifying edit is made in paragraph § 660.113 (a)(2) to use the defined term “date of landing” consistently throughout the recordkeeping and reporting regulations.

Current regulations at § 660.231 apply to vessels participating in the limited entry fixed gear sablefish primary fishery. However, many of the regulations that apply to limited entry fixed gear fishing also apply to vessels fishing in the limited entry fixed gear sablefish primary fishery. In this action, clarifying edits would be made to paragraph § 660.231(a) to make this clear. Section 660.231 provides additional details regarding management and prosecution of the limited entry fixed gear sablefish primary fishery, and is intended to be taken in the larger context of regulations that apply to limited entry fixed gear fisheries (limited entry fixed gear fisheries during and outside of the sablefish primary season).

Throughout these proposed revisions to regulations, cross-references would be updated to maintain accuracy given the proposed, substantive changes described in the sections above. Additionally, references to the NMFS “Northwest” Region would be changed to NMFS “West Coast” Region to reflect an organizational change that occurred in October 2013. References to “halibut” would be revised to refer to “Pacific halibut” to distinguish it from California halibut. Minor, non-substantive edits would also be made to remove duplicative text or change typographic or grammatical errors.

All of the proposed changes to regulations described in this section are not intended to change the meaning of existing regulations, but rather are intended to reduce duplication, simplify, correct cross references and make other minor, related changes to bring consistency within groundfish regulations.

Classification

NMFS has made a preliminary determination that the proposed action is consistent with groundfish FMP, the MSA, and other applicable law. There are no relevant federal rules that may duplicate, overlap, or conflict with this action. In making its final determination, NMFS will take

into account the complete record, including the data, views, and comments received during the comment period. An environmental assessment (EA) was prepared for this action. The EA includes socio-economic information that was used to prepare the Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA). The EA is available for public comment (See **ADDRESSES**) and is available on line at www.westcoast.fisheries.noaa.gov/publications/nepa/groundfish/groundfish_nepa_documents.html.

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 603 *et seq.*, requires government agencies to assess the effects that regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those effects. When an agency proposes regulations, the RFA requires the agency to prepare and make available for public comment an IRFA, unless the agency can certify that the proposed action would not have a significant economic impact on a substantial number of small entities. The IRFA describes the impact on small businesses, non-profit enterprises, local governments, and other small entities, and is intended to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. After the public comment period, the agency prepares a Final Regulatory Flexibility Analysis (FRFA) that takes into consideration any new information or public comments. A summary of the IRFA for this action is provided below. The reasons why action by the agency is being considered, the objectives and legal basis for this

rule are described in previous sections of the preamble, and the reporting and recordkeeping requirements are described in the next section.

Following are descriptions of small entities, as defined by the RFA and the Small Business Administration (SBA).

Small businesses. SBA has established guidelines on size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts, not in excess of \$20.5 million for all its affiliated operations worldwide (See 79 FR 33647, effective July 14, 2014). For marinas and charter/party boats, a small business now defined as one with annual receipts, not in excess of \$7.5 million. For related fish processing businesses, a small business is one that employs 750 or fewer persons.

Small organizations. The RFA defines small organizations as any nonprofit enterprise that is independently owned and operated and is not dominant in its field.

An estimated 99 entities are potentially impacted by this rule, including 77 receivers and up to 22 vessels/permit-holding entities. All of these entities are considered small according to the SBA guidelines stated above. This rule is not anticipated to have a substantial or significant economic impact on small entities, or to place small entities at a disadvantage to large entities. Nonetheless, NMFS has prepared an IRFA (available as part of the EA described above), which is summarized below. Through the rulemaking process associated with this action, we are requesting comments on this conclusion.

Description of Small Entities Affected by Proposed Rule Provisions on Electronic Fish Tickets. An estimated 77 first receivers across the primary and DTL fisheries will be impacted by

the electronic fish ticket requirement. These 77 first receivers account for approximately 34 percent of sablefish landings in these fisheries. An additional 23 sablefish first receivers are also IFQ first receivers and already use electronic fish tickets to record shorebased IFQ landings. The 77 first receivers across the primary and DTL fisheries who do not already use electronic fish tickets would be most affected by the action alternatives. Without having employment information for these businesses, NMFS is considering all 77 first receivers to be small entities under the SBA guidelines described above.

Description of Small Entities Affected by Proposed Rule Provisions on Ownership Limitation (i.e. Own/Hold Control Limit). This provision is likely to benefit a few individuals who own multiple vessels that operate in both the West Coast sablefish primary fishery and the Alaska sablefish IFQ fishery, and were grandfathered into the Alaska IFQ program. As relatively few businesses meet the SBA criteria for small enterprises, this provision of the proposed rule is not expected to impact a substantial number of small entities. At most, the 13 vessels that hold permits to fish in both the Alaska IFQ program and the West Coast sablefish primary fishery would qualify for the exemption.

Description of Small Entities Affected by Proposed Rule Provisions on Joint Registration. Since 2011, a total of 20 vessels have been registered to both trawl and fixed gear permits in a single year. Of these, 16 vessels would qualify as a small business under the SBA criteria described above. The permits associated with large entities were participating in a temporary research program. These 16 vessels are likely to benefit from the flexibility offered by joint registration. In 2015, the last year with complete data, nine vessels registered to both trawl and fixed gear permits within the year, and all of these reported being small businesses. These nine vessels are the most likely to realize immediate benefits from the updated rule.

Alternatives for Electronic Fish Tickets. NMFS considered four alternatives, including No Action, for electronic fish tickets. The No Action alternative (Alternative 1) would maintain current reporting state fish ticket reporting systems. Each of Alternatives 2 through 4 would implement a federal requirement that first receivers of non-trawl commercial sablefish landings to U.S. West Coast ports record landings on an electronic fish ticket. The action alternatives differ from each other only in the fleets that they address. Alternative 2 would affect participants in the limited entry fixed gear sablefish primary fishery only. Alternative 3 would expand upon Alternative 2 to add participants in the limited entry fixed gear DTL fishery. Lastly, Alternative 4 would expand upon Alternative 3 to add participants in the open access DTL sablefish fishery. All alternative actions except for Alternative 1 (No Action) will result in some expenses as a result of new reporting requirements. NMFS assumed that all of the affected small businesses already have access to a technically suitable computer to submit the electronic fish tickets. However, if a business did not currently own a computer, it would incur additional costs for the initial investment in a computer and for a small monthly fee for an internet connection. This requirement will likely result in increased administrative expenses with a longer submission time in those instances where first receivers must submit both State and Federal fish tickets. First receivers in the trawl program reported an hourly wage of \$33.68 for non-production employees in 2012 (Economic Data Collection Program First Receiver and Shorebased Processor Report, 2009-2012). Assuming non-IFQ receivers pay a similar wage to non-production employees, and using the burden-hour estimate included in the *Paper Work Reduction Act* section below, Alternative 2 is estimated to result in an additional annual expense of about \$2,500 for all processors combined, Alternative 3 would cost \$10,000 in total, and Alternative 4 (preferred alternative) would cost the sector \$20,000 or about an additional \$4 per fish ticket.

Alternatives for Ownership Limitation (i.e. Own/Hold Control Limit). NMFS considered three alternatives, including No Action (Alternative 1), with regards to ownership limitation changes. Alternatives 2a and 2b would result in a permit only being counted against the ownership limitation if a certain percentage of the vessel registered to that permit was owned. The two sub-alternatives vary by percentage of ownership: 20 percent and 30 percent for Alternatives 2a and 2b, respectively. Alternative 3 would result in permits counting as they do under No Action unless an exemption was applied for and granted by NMFS. There may be an opportunity for larger operations that were constrained by the three-permit limit to consolidate more harvest privileges by either acquiring Pacific coast limited entry fixed gear permits or by hiring out to west coast and Alaska participants to harvest Alaska IFQ. The degree of the current constraint, and consequently the opportunity provided by the alternative actions, is modest for the fleet as a whole, but this benefit may be important to some individuals.

Alternatives for Joint Registration. NMFS considered three alternatives, including No Action (Alternative 1), relative to joint registration. Alternative 2 would allow a single trawl permit and up to three limited entry fixed gear permits to be registered to a vessel simultaneously. Alternative 3 would allow the same permit registration options as Alternative 2, but would have additional requirements relative to declarations and at-sea processing. In 2014, the last year for which economic data are available, the average net revenue per day was \$4,815 for the eight vessels fishing with fixed gear in the trawl fishery that were also registered to a fixed-gear endorsed permit that year. The average net revenue per day in the fixed gear-endorsed fishery was \$4,686 (per data provided by the Economic Data Collection Program on March 23, 2016). Vessels had lower variable costs per day while participating in the fixed gear fishery compared with the trawl fishery.

Vessels that either own or lease both fixed gear and trawl permits may realize increased operational efficiency with joint registration, particularly with respect to the 100% observer coverage required when fishing under the trawl permit. Participants have indicated that they would take advantage of the alternative fishing opportunities afforded by this provision when scheduling trips on occasions that observers are unavailable for fishing under their trawl permit. If an observer wasn't available or had to cancel, the vessel could choose the alternative of declaring into the fixed gear endorsed fishery, and would not need to forgo the trip. Joint registration would additionally provide a minor administrative convenience to the vessels that own or have multi-year leased permits. These operators, who currently must complete and submit multiple transfer forms throughout the year (typically three), would no longer be required to submit any paperwork related to permit transfers.

Rejected Sub-Options for Alternatives 2 through 4 for Electronic Fish Tickets. While discussing the options for electronic fish tickets, the Council considered a sub-option for each of the action alternatives (Alternatives 2 through 4). Under the sub-option, sablefish deliveries would be recorded on state paper fish tickets, rather than on federal electronic fish tickets. NMFS would implement a federal requirement that sablefish landings, and the federal groundfish permit number associated with the landings, be recorded on state paper fish tickets. Although this sub-option would cause the least disruption to the existing landings process, adding new requirements to the state paper fish ticket system would fail to address the purpose and need for this action. This slight alteration in the process would not improve the timeliness of catch accounting or enforcement capabilities in the fishery.

Adding new requirements to the state paper fish ticket system would also cause several logistical challenges in managing the sablefish fishery: 1) sablefish landings data would not be

uploaded into the Pacific Fisheries Information Network (PacFIN) database at a faster than current rate, 2) there would continue to be a lag time of several months between when the landings occur and when the data are available, and 3) further augmenting paper fish ticket recording requirements would be disruptive to state data collection and management practices. Therefore, this sub-option has been considered, but rejected from further analysis.

In addition, the action alternatives originally included language regarding how the catch data recorded on the electronic tickets would be used, specifically stating, “That tier permits be loaded into the IFQ Vessel Account System with deductions made as appropriate when a tier delivery is made and recorded on the E Fish Ticket.” The Council determined that this language was overly restrictive, and that it was premature to discuss implementations issues such as the details of how the data would be processed and made available to end users. Therefore, the use of this language in the action alternatives has been considered, but rejected from further analysis.

Rejected Sub-options for Alternatives 2 through 4 for Ownership Limitation (i.e. Own/Hold Control Limit). The Council also discussed other action alternatives to address issues regarding the own/hold control rule. The first action alternative that was considered but rejected would have maintained a three permit limit for the own/hold control rule. However, control would be calculated on percentage ownership of permits and vessels. Total ownership (including for first and second generation owners) would be limited to a total of 300 percent. The intent of this action alternative would have been to limit the total ownership to three permits, which is the same as the No Action alternative.

The Council also considered increasing the own/hold control limit to six permits. Any percentage ownership would have counted as one permit. The Council also looked at leaving the own/hold control limit at three, but capping the number of tier permits an entity may register to a

vessel at three permits, and capping the number of limited entry fixed gear tier vessels an entity can own at three. These changes would have effectively increased the maximum own/hold control limit to 12 permits, because an entity could own three permits and have partial or total ownership of three vessels, each of which are registered to three different permits owned by others. Finally, the Council considered an action alternative that would leave the own/hold control limit at three permits, but with the calculation based only on ownership of permits. Holding or leasing a permit or ownership in the vessel would not have counted toward the three permit limit. A person could have owned three permits and held any number of additional permits by registering the vessel(s) they own to permits owned or leased by other persons.

The Council considered but rejected these action alternatives for the own/hold control rule from further analysis, because the Council found that these alternatives were administratively burdensome to implement and track. The Council found that some of these alternatives weakened the own/hold control limit beyond what was needed to address the purpose and need. If implemented, these alternatives could undermine the purpose of having own/hold control limits in place, namely to maintain the owner operator nature of the fleet.

Rejected Sub-options for Alternatives 2 through 4 for Joint Registration. Another alternative that was considered to address the issues with joint registration was to increase the number of transfers allowed per year. Currently, vessels are only allowed to transfer permits once per year. This alternative would increase a vessel's flexibility to move between the LE trawl and fixed gear fishery, and it would also allow more flexibility for vessels to move between the LE and OA fisheries, reducing the wall between these sectors. However, such a provision would increase administrative costs and provide less flexibility for the fleet than offered by the

other action alternatives, because the cap on the number of transfers allowed per year would remain in place. Therefore, this alternative was considered but rejected from further analysis.

Impacts to Small Businesses from Actions 4-9. Except for electronic fish tickets, own/hold control limit and joint registration, the actions described above in sections 4-9 of this proposed rule are largely administrative and, if adopted, would not impact any of the small entities identified as potentially being affected by the first three major actions in this proposed rule. Changes associated with actions 4-9 would make small modifications and clarifications to existing requirements, maintain existing requirements in light of changes related to joint registration, and simplify equipment requirements. Thus, these measures would not have a significant economic impact on a substantial number of the small entities described in this document.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for under the following control numbers:

OMB Control Number 0648-XXX. Electronic Fish Tickets

Public reporting burden is estimated to average 10 minutes per response (landing) for first receivers in Washington and California, and two minutes per response (landing) for first receivers in Oregon. The total annual burden estimate for all first receivers in Washington is 87 hours, in California is 543 hours, and in Oregon is 36 hours. Public reporting burden includes the time for reviewing instructions, accessing the web-based platform, gathering the data needed, and completing and reviewing the collection of information.

OMB Control Number 0648-XXX. Ownership Limitation Exemption

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to West Coast Region at the **ADDRESSES** above, and by e-mail to *OIRA_Submission@omb.eop.gov* or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: May 25, 2016

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. In § 660.11:

- a. Revise the definitions for “Base permit” and “Electronic fish ticket”;
- b. Add in alphabetical order the definition for “Joint registration”;
- c. Remove the definition for “Stacking”; and
- b. Add in alphabetical order the definition for “Stacking or stacked”

The revisions and additions read as follows:

§ 660.11 General definitions.

* * * * *

Base permit means a sablefish-endorsed limited entry permit described at § 660.25(b)(3)(i), subpart C, registered for use with a vessel that meets the permit length endorsement requirements appropriate to that vessel, as described at § 660.25(b)(3)(iii), subpart C.

* * * * *

Electronic fish ticket means a web-based form that is used to send landing data to the Pacific States Marine Fisheries Commission. Electronic fish tickets are used to collect information similar to the information required in state fish receiving tickets or landing receipts, but do not replace or change any state requirements.

* * * * *

Joint registration or jointly registered means simultaneously registering both trawl-endorsed and longline or trap/pot-endorsed limited entry permits for use with a single vessel in one of the configurations described at § 660.25(b)(4)(iv).

* * * * *

Stacking or stacked means registering more than one sablefish-endorsed limited entry permit for use with a single vessel (See § 660.25(b)(4)(iii), subpart C).

* * * * *

3. In § 660.12, revise paragraph (a)(6) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(6) Take and retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the

primary limited entry, fixed gear sablefish season from a vessel authorized to fish in that season, as described at § 660.231, subpart E.

* * * * *

4. In § 660.13, revise paragraph (d) introductory text, and paragraphs (d)(5)(ii) and (iii), and (d)(5)(iv)(A)(24) to read as follows

§ 660.13 Recordkeeping and reporting.

* * * * *

(d) *Declaration reporting requirements*- When the operator of a vessel registers a VMS unit with NMFS OLE, the vessel operator must provide NMFS with a declaration report as specified at paragraph (d)(5)(iv) of this section. The operator of any vessel that has already registered a VMS unit with NMFS OLE but has not yet made a declaration, as specified at paragraph (d)(5)(iv) of this section, must provide NMFS with a declaration report upon request from NMFS OLE.

(5) * * *

(ii) A declaration report will be valid until another declaration report revising the existing gear or fishery declaration is received by NMFS OLE. The vessel operator must send a new declaration report before leaving port on a trip that meets one of the following criteria:

(A) A gear type that is different from the gear type most recently declared for the vessel will be used, or

(B) A vessel will fish in a fishery other than the fishery most recently declared.

(iii) During the period of time that a vessel has a valid declaration report on file with NMFS OLE, it cannot fish with a gear other than a gear type declared by the vessel or fish in a fishery other than the fishery most recently declared.

(iv) * * *

(A) * * *

(24) Other, or

* * * * *

5. In § 660.15, revise paragraphs (a) and (d) to read as follows:

§ 660.15 Equipment requirements.

(a) *Applicability.* This section contains the equipment and operational requirements for scales used to weigh catch at sea, scales used to weigh catch at IFQ first receivers, hardware and software for electronic fish tickets, and computer hardware for electronic logbook software. Unless otherwise specified by regulation, the operator or manager must retain, for 3 years, a copy of all records described in this section and make the records available upon request to NMFS staff or an authorized officer.

* * * * *

(d) *Electronic fish tickets.* First receivers are required to meet the hardware and software requirements below.

(1) *Hardware and software requirements.* A personal computer system, tablet, mobile device, or other device that has software (e.g. web browser) capable of submitting information over the internet, such that submission to Pacific States Marine Fisheries Commission can be executed effectively.

(2) *Internet access.* The first receiver is responsible for maintaining internet access sufficient to access the web-based interface and submit completed electronic fish ticket forms.

(3) *Maintenance.* The first receiver is responsible for ensuring that all hardware and software required under this subsection are fully operational and functional whenever they

receive, purchase, or take custody, control, or possession of groundfish species for which an electronic fish ticket is required. “Functional” means that the software requirements and minimum hardware requirements described at paragraphs (d)(1) and (2) of this section are met and submission to Pacific States Marine Fisheries Commission can be executed effectively by the equipment.

(4) *Improving data quality.* Vessel owners and operators, first receivers, or shoreside processor owners, or managers may contact NMFS to request assistance in improving data quality and resolving issues. Requests may be submitted to: Attn: Electronic Fish Ticket Monitoring, National Marine Fisheries Service, West Coast Region, Sustainable Fisheries Division, 7600 Sand Point Way, NE, Seattle, WA 98115.

6. In § 660.25:

- a. Revise paragraph (b)(1)(v);
- b. Remove paragraph (b)(3)(iv)(B);
- c. Redesignate paragraph (b)(3)(iv)(C) as (b)(3)(iv)(B);
- d. Revise newly redesignated paragraphs (b)(3)(iv)(B)(3) and (4);
- e. Add a new paragraph (b)(3)(iv)(C);
- f. Revise paragraphs (b)(3)(v), (b)(4) introductory text, (b)(4)(i)(D), and (b)(4)(iii);
- g. Redesignate paragraphs (b)(4)(iv) through (b)(4)(ix) as (b)(4)(v) through (b)(4)(x);
- h. Add a new paragraph (b)(4)(iv);
- i. Revise newly redesignated paragraphs (b)(4)(v)(A) and (B), (b)(4)(vi)(A) and (B), and (b)(4)(vii)(A); and
- j. Revise paragraph (b)(6).

The revisions and additions read as follows:

§ 660.25 Permits.

* * * * *

(b) * * *

(1) * * *

(v) *Initial administrative determination (IAD)*. SFD will make a determination regarding permit endorsements, renewal, replacement, change in permit ownership and change in vessel registration. SFD will notify the permit owner in writing with an explanation of any determination to deny a permit endorsement, renewal, replacement, change in permit ownership or change in vessel registration. The SFD will decline to act on an application for permit endorsement, renewal, replacement, or change in registration of a limited entry permit if the permit is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858 (a) and implementing regulations at 15 CFR part 904, subpart D, apply.

* * * * *

(3) * * *

(iv) * * *

(B) * * *

(3) A partnership or corporation will lose the exemptions provided in paragraphs (b)(3)(iv)(B)(I) and (2) of this section on the effective date of any change in the corporation or partnership from that which existed on November 1, 2000. A “change” in the partnership or corporation is defined at § 660.11. A change in the partnership or corporation must be reported to SFD within 15 calendar days of the addition of a new shareholder or partner.

(4) Any partnership or corporation with any ownership interest in a limited entry permit with a sablefish endorsement or in the vessel registered to the permit shall document the extent

of that ownership interest with NMFS via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process and whenever a change in permit owner, vessel owner, and/or vessel registration occurs as described at paragraph (b)(4)(v) and (vi) of this section. NMFS will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at paragraph (b)(4)(i) of this section, or approve a change in permit owner, vessel owner, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if NMFS discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (b)(3)(iv)(B)(2) of this section, the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as “unidentified” until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions and requirements described in paragraph (b)(3)(iv)(B)(2) of this section. If NMFS discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph (b)(3)(iv)(B)(3) of this section, the partnership or corporation will be notified, NMFS will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in “unidentified” status with respect to vessel registration until the partnership or corporation is able to register ownership of those permits to persons authorized under this section to own sablefish-endorsed limited entry permits.

* * * * *

(C) *Ownership limitation exemption.* As described in (b)(3)(iv)(B) of this section, no individual person, partnership, or corporation in combination may own and/or hold more than

three sablefish-endorsed permits. A vessel owner that meets the qualifying criteria described in paragraph (b)(3)(iv)(C)(I) of this section may request an exemption from the ownership limitation.

(1) Qualifying criteria. The three qualifying criteria for an ownership limitation exemption are: the vessel owner currently has no more than 20 percent ownership interest in a vessel registered to the sablefish endorsed permit, the vessel owner currently has ownership interest in Alaska sablefish individual fishing quota, and the vessel has fished in the past 12-month period in both the West Coast groundfish limited entry fixed gear fishery and the Sablefish IFQ Program in Alaska. The best evidence of a vessel owner having met these qualifying criteria will be state fish tickets or landings receipts from the West Coast states and Alaska. The qualifying vessel owner may seek an ownership limitation exemption for sablefish endorsed permits registered to no more than two vessels.

(2) Application and issuance process for an ownership limitation exemption. The SFD will make the qualifying criteria and application instructions available online at www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html. A vessel owner who believes that they may qualify for the ownership limitation exemption must submit evidence with their application showing how their vessel has met the qualifying criteria described at paragraph (b)(3)(iv)(C)(I) of this section. The vessel owner must also submit a Sablefish Permit Ownership Limitation Exemption Identification of Ownership Interest form that includes disclosure of percentage of ownership in the vessel and disclosure of individual shareholders in any entity. Paragraph (i) of this section sets out the relevant evidentiary standards and burden of proof. Applications may be submitted at any time to NMFS at: NMFS West Coast Region, Sustainable Fisheries Division, ATTN: Fisheries Permit Office—Sablefish Ownership Limitation

Exemption, 7600 Sand Point Way NE., Seattle, WA 98115. After receipt of a complete application, the SFD will issue an IAD in writing to the applicant determining whether the applicant qualifies for the exemption. If an applicant chooses to file an appeal of the IAD, the applicant must follow the appeals process outlined at paragraph (g) of this section and, for the timing of the appeals, at paragraph (g)(4)(ii) of this section.

(3) *Exemption status.* If at any time a change occurs relative to the qualifying criteria described at paragraph (b)(3)(iv)(C)(I), the vessel owner to whom the ownership limitation exemption applies must notify NMFS within 30 calendar days. If such changes mean the vessel owner no longer meets the qualifying criteria, the ownership limitation exemption becomes automatically null and void 30 calendar days after the date the vessel owner no longer meets the qualifying criteria. At any time, NMFS may request that the vessel owner submit a new exemption application. If NMFS at any time finds the vessel owner no longer meets the qualifying criteria described at paragraph (b)(3)(iv)(C)(I) of this section NMFS will issue an IAD, which may be appealed, as described at paragraph (g) of this section.

(v) *MS/CV endorsement.* An MS/CV endorsement on a trawl limited entry permit conveys a conditional privilege that allows a vessel registered to it to fish in either the coop or non-coop fishery in the MS Coop Program described at § 660.150, subpart D. The provisions for the MS/CV-endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, accumulation limits, fees, and appeals are described at § 660.150. Each MS/CV endorsement has an associated catch history assignment (CHA) that is permanently linked as originally issued by NMFS and which cannot be divided or registered separately to another limited entry trawl permit. Regulations detailing this process and MS/CV-endorsed permit combinations are outlined in § 660.150(g)(2), subpart D.

* * * * *

(4) *Limited entry permit actions*—renewal, combination, stacking, joint registration, change of permit owner or vessel owner, and change in vessel registration—

(i) * * *

(D) Limited entry permits with sablefish endorsements, as described at paragraph (b)(3)(iv) of this section, will not be renewed until SFD has received complete documentation of permit ownership as required under paragraph (b)(3)(iv)(B)(4) of this section.

* * * * *

(iii) *Stacking limited entry permits*. “Stacking” limited entry permits, as defined at § 660.11, refers to the practice of registering more than one sablefish-endorsed permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be stacked. Up to 3 limited entry permits with sablefish endorsements may be registered for use with a single vessel during the primary sablefish season described at § 660.231, subpart E. Privileges, responsibilities, and restrictions associated with stacking permits to fish in the sablefish primary fishery are described at § 660.231, subpart E and at paragraph (b)(3)(iv) of this section.

(iv) *Joint registration of limited entry permits*—(A) *General*. “Joint registration” of limited entry permits, as defined at § 660.11, is the practice of simultaneously registering both trawl-endorsed and longline or trap/pot-endorsed limited entry permits for use with a single vessel.

(B) *Restrictions*. Subject to vessel size endorsements in paragraph (b)(3)(iii), any limited entry permit with a trawl endorsement and any limited entry permit with a longline or trap/pot endorsement may be jointly registered for use with a single vessel but only in one of the following configurations:

(1) a single trawl-endorsed limited entry permit and one, two or three sablefish-endorsed fixed gear (longline and/or fishpot endorsed) limited entry permits; or

(2) a single trawl-endorsed limited entry permit and one longline-endorsed limited entry permit for use with a single vessel.

(v) * * *

(A) *General.* Change in permit owner and/or vessel owner applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(viii) and (ix) of this section. The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit owner has been registered with and approved by NMFS. NMFS will not approve a change in permit owner for a limited entry permit with a sablefish endorsement that does not meet the ownership requirements for such permit described at paragraph (b)(3)(iv)(B) of this section. NMFS will not approve a change in permit owner for a limited entry permit with an MS/CV endorsement or an MS permit that does not meet the ownership requirements for such permit described at § 660.150(g)(3), and § 660.150(f)(3), respectively. NMFS considers the following as a change in permit owner that would require registering with and approval by NMFS, including but not limited to: Selling the permit to another individual or entity; adding an individual or entity to the legal name on the permit; or removing an individual or entity from the legal name on the permit. A change in vessel owner includes any changes to the name(s) of any or all vessel owners, as registered with USCG or a state. The new owner(s) of a vessel registered to a limited entry permit must report any change in vessel ownership to NMFS within 30 calendar days after such change has been registered with the USCG or a state licensing agency.

(B) *Effective date.* The change in permit ownership or change in the vessel holding the permit will be effective on the day the change is approved by NMFS, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (b)(4)(vi) of this section.

* * * * *

(vi) * * *

(A) *General.* A permit may not be used with any vessel other than the vessel registered to that permit. For purposes of this section, a permit change in vessel registration occurs when, through SFD, a permit owner registers a limited entry permit for use with a new vessel. Permit change in vessel registration applications must be submitted to SFD with the appropriate documentation described at paragraph (b)(4)(viii) of this section. Upon receipt of a complete application, and following review and approval of the application, the SFD will reissue the permit registered to the new vessel. Applications to change vessel registration on limited entry permits with sablefish endorsements will not be approved until SFD has received complete documentation of permit ownership as described at paragraph (b)(3)(iv)(B)(4) and as required under paragraph (b)(4)(viii) of this section. Applications to change vessel registration on limited entry permits with trawl endorsements or MS permits will not be approved until SFD has received complete EDC forms as required under § 660.114, subpart D.

(B) *Application.* Change in vessel registration applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(viii) and (ix) of this section. At a minimum, a permit owner seeking to change vessel registration of a limited entry permit shall submit to NMFS a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to fish. If a permit owner provides

a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. NMFS will not approve a change in vessel registration until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

* * * * *

(vii) * * *

(A) *General.* A permit owner may designate the vessel registration for a permit as “unidentified,” meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as “unidentified.” A vessel owner who removes a permit from his vessel and registers that permit as “unidentified” is not exempt from VMS requirements at § 660.14, unless specifically authorized by that section. When a permit owner requests that the permit's vessel registration be designated as “unidentified,” the transaction is not considered a change in vessel registration for purposes of this section. Any subsequent request by a permit owner to change from the “unidentified” status of the permit in order to register the permit with a specific vessel will be considered a change in vessel registration and subject to the restriction on frequency and timing of changes in vessel registration.

* * * * *

(6) *At-sea processing exemptions—(i) Sablefish at-sea processing exemption.* No new applications for sablefish at-sea processing exemptions will be accepted. As specified at § 660.212(d)(3), subpart E, vessels are prohibited from processing sablefish at sea that were caught in the sablefish primary fishery without a sablefish at-sea processing exemption. Any sablefish at-sea processing exemptions were issued to a particular vessel and that permit and vessel owner

who requested the exemption. The exemption is not part of the limited entry permit. The exemption cannot be registered with any other vessel, vessel owner, or permit owner for any reason. The exemption only applies to at-sea processing of sablefish caught in the sablefish primary fishery. The sablefish at-sea processing exemption will expire upon registration of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.11.

(ii) *Non-whiting at-sea processing exemption.* No new applications for non-whiting at-sea processing exemptions will be accepted. As specified at § 660.112(b)(1)(xii), subpart D, vessels are prohibited from processing non-whiting groundfish at sea that were caught in the Shorebased IFQ Program without a non-whiting at-sea processing exemption. Any non-whiting at-sea processing exemptions were issued to a particular vessel and that permit and/or vessel owner who requested the exemption. The exemption is not part of the limited entry permit. The exemption is not transferable to any other vessel, vessel owner, or permit owner for any reason. The exemption only applies to at-sea processing of non-whiting groundfish caught in the Shorebased IFQ Program. The non-whiting at-sea processing exemption will expire upon registration of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.11.

* * * * *

7. In § 660.55, revise paragraph (f) introductory text and paragraphs (h)(1) and (2) to read as follows:

§ 660.55 Allocations.

* * * * *

(f) *Catch accounting.* Catch accounting refers to how the catch in a fishery is monitored against the allocations described in this section. For species with trawl/nontrawl allocations, catch of those species are counted against the trawl/nontrawl allocations as explained in

paragraph (f)(1) of this section. For species with limited entry/open access allocations in a given biennial cycle, catch of those species are counted against the limited entry/open access allocations as explained in paragraph (f)(1)(ii) of this section.

* * * * *

(h) * * *

(1) *Tribal/nontribal allocation.* The sablefish allocation to Pacific coast treaty Indian tribes is identified at § 660.50(f)(2). The remainder is available to the nontribal fishery (limited entry, open access (directed and incidental), and research).

(2) *Between the limited entry and open access fisheries.* The allocation of sablefish after tribal deductions is further reduced by the estimated total mortality of sablefish in research and recreational fisheries; the remaining yield (commercial harvest guideline) is divided between open access and limited entry fisheries. The limited entry fishery allocation is 90.6 percent of the commercial harvest guideline. The open access allocation is 9.4 percent of the commercial harvest guideline and includes incidental catch in non-groundfish fisheries, or incidental open access.

* * * * *

8. In § 660.60:

a. Revise paragraphs (h)(7) introductory text, (h)(7)(i) introductory text, (h)(7)(ii)(A), (h)(7)(ii)(B)(1) introductory text, and (h)(7)(ii)(B)(2); and

b. Add paragraphs (h)(7)(ii)(B)(3) and (h)(7)(iii).

The revisions and additions read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(h) * * *

* * * * *

(7) *Crossover provisions.* Crossover provisions apply to three activities: Fishing on different sides of a management line, or fishing in both the limited entry and open access fisheries, or fishing in both the Shorebased IFQ Program and the limited entry fixed gear fishery. NMFS uses different types of management areas for West Coast groundfish management, such as the north-south management areas as defined in § 660.11. Within a management area, a large ocean area with northern and southern boundary lines, trip limits, seasons, and conservation areas follow a single theme. Within each management area, there may be one or more conservation areas, defined at § 660.11 and §§ 660.70 through 660.74. The provisions within this paragraph apply to vessels fishing in different management areas. Crossover provisions also apply to vessels that fish in both the limited entry and open access fisheries, or that use open access non-trawl gear while registered to limited entry fixed gear permits. Crossover provisions also apply to vessels that are jointly registered, as defined at § 660.11, fishing in both the Shorebased IFQ Program and the limited entry fixed gear fishery during the same cumulative limit period. Fishery specific crossover provisions can be found in subparts D through F of this part.

(i) *Fishing in management areas with different trip limits.* Trip limits for a species or a species group may differ in different management areas along the coast. The following crossover provisions apply to vessels fishing in different geographical areas that have different cumulative or “per trip” trip limits for the same species or species group, with the following exceptions. Such crossover provisions do not apply to: IFQ species (defined at § 660.140(c), subpart D) for vessels that are declared into the Shorebased IFQ Program (see § 660.13(d)(5)(iv)(A), for valid

Shorebased IFQ Program declarations); species that are subject only to daily trip limits; or to trip limits for black rockfish off Washington, as described at § 660.230(e) and § 660.330(e).

* * * * *

(ii) * * *

(A) *Fishing in limited entry and open access fisheries with different trip limits.* Open access trip limits apply to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. Except such provisions do not apply to IFQ species (defined at § 660.140(c), subpart D) for vessels that are declared into the Shorebased IFQ Program (see § 660.13(d)(5)(iv)(A) for valid Shorebased IFQ Program declarations). A vessel that fishes in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit registered to it at any time during the trip limit period and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit may not be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit registered to it at any time during the trip limit period and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.

(B) * * *

(1) *Vessel registered to a limited entry trawl permit.* To fish with open access gear, defined at § 660.11, a vessel registered to a limited entry trawl permit must make the appropriate fishery declaration, as specified at § 660.14(d)(5)(iv)(A). In addition, a vessel registered to a limit entry trawl permit must remove the permit from their vessel, as specified at §

660.25(b)(4)(vi), unless the vessel will be fishing in the open access fishery under one of the following declarations specified at § 660.13(d):

* * * * *

(2) *Vessel registered to a limited entry fixed gear permit(s).* To fish with open access gear, defined at § 660.11, subpart C, a vessel registered to a limit entry fixed gear permit must make the appropriate open access declaration, as specified at § 660.14(d)(5)(iv)(A). Vessels registered to a sablefish-endorsed permit(s) fishing in the sablefish primary season (described at § 660.231, subpart E) may only fish with the gear(s) endorsed on their sablefish-endorsed permit(s) against those limits.

(3) *Vessel jointly registered to more than one limited entry permit.* Vessels jointly registered (under the provisions at § 660.25(b)(4)(iv)(B)) may fish with open access gear (defined at § 660.11) if they meet the requirements of both paragraphs (h)(7)(ii)(B)(1) and (2) of this section.

(iii) *Fishing in both the Shorebased IFQ Program and the limited entry fixed gear fishery for vessels that are jointly registered.*

(A) *Fishing in the Shorebased IFQ Program and limited entry fixed gear fishery with different trip limits.* If a vessel fishes in both the Shorebased IFQ Program and the limited entry fixed gear fishery during a cumulative limit period, they are subject to the most restrictive trip limits for non-IFQ species.

(B) *Fishing in the Shorebased IFQ Program and the limited entry fixed gear sablefish primary fishery with different trip limits.* If a vessel is jointly registered and one or more of the limited entry permits is sablefish endorsed, any sablefish landings made by a vessel declared into the limited entry fixed gear fishery after the start of the sablefish primary fishery count towards

the tier limit(s), per regulations at § 660.232(a)(2), subpart E. Any sablefish landings made by a vessel declared into the Shorebased IFQ Program must be covered by quota pounds, per regulations at § 660.112(b), subpart D, and will not count towards the tier limit(s).

9. In § 660.112:

- a. Revise paragraphs (a)(3)(i) and (ii);
- b. Remove paragraph (b)(1)(xii)(B); and
- c. Redesignate paragraph (b)(1)(xii)(C) as (b)(1)(xii)(B).

The revision reads as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(a) * * *

(3) * * *

(i) Fail to comply with all recordkeeping and reporting requirements at § 660.13, subpart C; including failure to submit information, or submission of inaccurate or false information on any report required at § 660.13(d), subpart C, and § 660.113:

(ii) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, containing all data, and in the exact manner, required by the regulation at § 660.13, subpart C, or § 660.113.

* * * * *

10. In § 660.113:

- a. Revise paragraphs (a)(2), (b)(4)(ii)(A);
- b. Remove paragraphs (b)(4)(ii)(B) and (C) and redesignate paragraphs (b)(4)(ii)(D) through (F) as (b)(4)(ii)(B) through (D);

c. Revise newly redesignated paragraphs (b)(4)(ii)(C)(5) introductory text and (b)(4)(ii)(C)(6); and

d.) Revise paragraphs (b)(4)(iii) and (b)(4)(v).

The revisions read as follows:

§ 660.113 Trawl fishery—recordkeeping and reporting.

* * * * *

(a) * * *

(2) All records used in the preparation of records or reports specified in this section or corrections to these reports must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS. Records used in the preparation of required reports specified in this section or corrections to these reports that are required to be kept include, but are not limited to, any written, recorded, graphic, electronic, or digital materials as well as other information stored in or accessible through a computer or other information retrieval system; worksheets; weight slips; preliminary, interim, and final tally sheets; receipts; checks; ledgers; notebooks; diaries; spreadsheets; diagrams; graphs; charts; tapes; disks; or computer printouts. All relevant records used in the preparation of electronic fish ticket reports or corrections to these reports, including dock tickets, must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS.

(b) * * *

(4) * * *

(ii) * * *

(A) Include, as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.15(c), and the vessel identification number. Use, and maintain in good working order, hardware, software, and internet access as specified at § 660.15(d).

* * * * *

(C) * * *

(5) Prior to submittal, three copies of the printed, signed, electronic fish ticket must be produced by the IFQ first receiver and a copy provided to each of the following:

* * * * *

(6) After review and signature, the electronic fish ticket must be submitted within 24 hours of the completion of the offload, as specified in paragraph (b)(4)(ii)(B) of this section.

* * * * *

(iii) *Revising a submission.* In the event that a data error is found, electronic fish ticket submissions must be revised by resubmitting the revised form electronically. Electronic fish tickets are to be used for the submission of final data. Preliminary data, including estimates of fish weights or species composition, shall not be submitted on electronic fish tickets.

* * * * *

(v) *Reporting requirements when a temporary waiver has been granted.* IFQ First receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets must submit on paper the same data as is required on electronic fish tickets within 24 hours of the date received during the period that the waiver is in effect. Paper fish tickets must be sent by facsimile to NMFS, West Coast Region, Sustainable Fisheries Division, 206-526-6736 or

by delivering it in person to 7600 Sand Point Way, NE., Seattle, WA 98115. The requirements for submissions of paper tickets in this paragraph are separate from, and in addition to existing state requirements for landing receipts or fish receiving tickets.

* * * * *

§ 660.114 [Amended]

11. Amend § 660.114(b) by removing the words “§ 660.25(b)(4)(v)” wherever they appear and adding the words “§ 660.25(b)(4)(vi).”

12. In § 660.211, add the definition of “sablefish landing” is in alphabetical order to read as follows:

§ 660.211 Fixed gear fishery—definitions.

* * * * *

Sablefish landing means a landing that includes any amount of sablefish harvested in the limited entry fixed gear fishery.

* * * * *

13. In § 660.212:

- a. Revise paragraph (a)(2);
- b. Add paragraphs (a)(3) through (6);
- c. Revise paragraphs (b), and (d)(1) and (2).

The revisions and additions read as follows:

§ 660.212 Fixed gear fishery—prohibitions.

* * * * *

(a) * * *

(2) Take and retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the limited entry fixed gear sablefish primary season from a vessel authorized to fish in that season, as described at § 660.231 and except for IFQ species taken in the Shorebased IFQ Program from a vessel authorized under gear switching provisions as described at § 660.140(k).

(3) Transport catch that includes any amount of sablefish away from the point of landing before that catch has been sorted and weighed by federal groundfish species or species group, and recorded for submission on an electronic fish ticket under § 660.213(e). (If fish will be transported to a different location for processing, all sorting and weighing to federal groundfish species groups must occur before transporting the catch away from the point of landing).

(4) Mix catch from more than one sablefish landing prior to the catch being sorted and weighed for reporting on an electronic fish ticket under § 660.213(e).

(5) Process, sell, or discard any groundfish received from a sablefish landing that has not been accounted for on an electronic fish ticket under § 660.213(e).

(6) Upon commencing an offload of a sablefish landing at a landing site, fail to offload all groundfish on board the vessel at that landing site.

(b) *Recordkeeping and reporting.* (1) Fail to comply with all recordkeeping and reporting requirements at § 660.13, subpart C; including failure to submit information, or submission of inaccurate or false information on any report required at § 660.13(d), subpart C, and § 660.213.

(2) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings that include sablefish, containing all data, and in the exact manner, required by the regulation at § 660.13, subpart C, or § 660.213.

* * * * *

(d) *Sablefish fisheries*. (1) Take and retain, possess or land sablefish under the tier limits provided for the limited entry, fixed gear sablefish primary season, described in § 660.231(b)(3), from a vessel that is not registered to a limited entry permit with a sablefish endorsement.

(2) Take and retain, possess or land sablefish in the sablefish primary season, described at § 660.231(b), unless the owner of the limited entry permit registered for use with that vessel and authorizing the vessel to fish in the sablefish primary season is on board that vessel. Exceptions to this prohibition are provided at § 660.231(b)(4)(i) and (ii).

* * * * *

14. In § 660.213, revise paragraph (d)(1) and add paragraph (e) to read as follows:

§ 660.213 Fixed gear fishery—recordkeeping and reporting.

* * * * *

(d) * * *

(1) Any person landing groundfish must retain on board the vessel from which groundfish are landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter. All relevant records used in the preparation of electronic fish ticket reports or corrections to these reports, including dock tickets, must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS.

* * * * *

(e) *Electronic fish ticket*. The first receiver, as defined at § 660.11, subpart C, of a sablefish landing from a limited entry fixed gear vessel is responsible for compliance with all

reporting requirements described in this paragraph. When used in this paragraph, submit means to transmit final electronic fish ticket information via web-based form or, if a waiver is granted, by paper form. When used in this paragraph, record means the action of documenting electronic fish ticket information in any written format.

(1) *Required information.* All first receivers must provide the following types of information: Date of landing, vessel that made the landing, vessel identification number, limited entry permit number(s), name of the vessel operator, gear type used, receiver, actual weights of species landed listed by species or species group including species with no value, condition landed, number of salmon by species, number of Pacific halibut, ex-vessel value of the landing by species, fish caught inside/outside 3 miles or both, and any other information deemed necessary by the Regional Administrator (or designee) as specified on the appropriate electronic fish ticket form.

(2) *Submissions.* The first receiver must:

(i) Include, as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.15(c), the vessel identification number, and the limited entry permit number. Use and maintain, for the purposes of submitting electronic fish tickets, equipment as specified at § 660.15(d).

(ii) Submit a completed electronic fish ticket(s) for every landing that includes sablefish no later than 24 hours after the date of landing, unless a waiver of this requirement has been granted under provisions specified at paragraph (e)(4) of this section.

(iii) Submit separate electronic fish tickets for sablefish landings in the limited entry fixed gear sablefish primary fishery where the sablefish will be counted against more than one of the stacked permits, or against a tier limit(s) and the cumulative trip limit in the DTL fishery. For

vessels with stacked limited entry sablefish permits, defined at § 660.12, a landing may be divided and reported on separate electronic fish tickets for the purposes of apportioning the sablefish landings amongst the remaining tier limits associated with each of the stacked permits. Per regulations at § 660.232(a)(2) a vessel may land the remainder of its tier limit(s) and also land against the applicable DTL limits in the same landing; in that instance multiple fish tickets must be used to apportion sablefish landed against the tier(s) from the sablefish landed against cumulative trip limits of the DTL fishery. If multiple electronic fish tickets are recorded and submitted for a single sablefish landing, each electronic fish ticket must meet the process and submittal requirements specified in paragraphs (e)(iv) and (v) of this section in addition to the following requirements:

(A) The sum total of all groundfish, including sablefish, from the landing must be submitted via electronic fish ticket(s).

(B) The limited entry fixed gear sablefish permit number unto which the portion of the sablefish landing will be attributed to must be recorded on each electronic fish ticket or dock ticket. Only one permit number may be recorded on a ticket.

(C) The owner-on board, unless exempted under regulations at § 660.231(a)(4), must review and sign documentation of the landing, as described in (e)(2)(iv) and (v) of this section.

(iv) If electronic fish tickets will be submitted prior to processing or transport, follow these process and submittal requirements:

(A) After completing the landing, the electronic fish ticket information must be recorded immediately.

(B) Prior to submittal of the electronic fish ticket, the information recorded for the electronic fish ticket must be reviewed by the vessel operator who delivered the fish, and the port

sampler if one is present. If required by regulations at § 660.231(a)(4), the owner-on-board must also review the information recorded on the electronic fish ticket prior to submittal.

(C) After review, the receiver and the vessel operator must sign a printed hard copy of the electronic fish ticket or, if the landing occurs outside of business hours, the original dock ticket. If required by regulations at § 660.231(a)(4), the owner-on-board must also sign a printed copy of the electronic fish ticket or, if the landing occurs outside of business hours, the original dock ticket.

(D) Prior to submittal, three copies of the signed electronic fish ticket must be produced by the receiver and a copy provided to each of the following:

- (1) The vessel operator and/or the owner-on-board;
- (2) The state of origin if required by state regulations; and
- (3) The first receiver.

(E) After review and signature, the electronic fish ticket must be submitted within 24 hours after the date of landing, as specified in paragraph (e)(2)(ii) of this section.

(v) If electronic fish tickets will be submitted after transport, follow these process and submittal requirements:

(A) The vessel name, limited entry permit number, and the electronic fish ticket number must be recorded on each dock ticket related to that landing.

(B) Upon completion of the dock ticket, but prior to transfer of the landing to another location, the dock ticket information that will be used to complete the electronic fish ticket must be reviewed by the vessel operator who delivered the fish. If the electronic fish ticket will report landings of sablefish in the sablefish primary fishery, the owner-on-board, unless exempted

under regulations at § 660.231(a)(4), must review the information recorded on the dock ticket prior to transfer of the landing to another location.

(C) After review, the first receiver and the vessel operator must sign the original copy of each dock ticket related to that landing. If a dock ticket includes landings of sablefish in the sablefish primary fishery, the owner-on-board, unless exempted under regulations at § 660.231(a)(4), must sign the original copy of that dock ticket.

(D) Prior to submittal of the electronic fish ticket, three copies of the signed dock ticket must be produced by the first receiver and a copy provided to each of the following:

- (1) The vessel operator and/or the owner-on-board;
- (2) The state of origin if required by state regulations; and
- (3) The first receiver.

(E) Based on the information contained in the signed dock ticket, the electronic fish ticket must be completed and submitted within 24 hours of the completion of the landing, as specified in paragraph (e)(2)(ii) of this section.

(F) Three copies of the electronic fish ticket must be produced by the first receiver and a copy provided to each of the following:

- (1) The vessel operator and/or the owner-on-board;
- (2) The state of origin if required by state regulations; and
- (3) The first receiver.

(3) *Revising a submission.* In the event that a data error is found, electronic fish ticket submissions must be revised by resubmitting the revised form electronically. Electronic fish tickets are to be used for the submission of final data. Preliminary data, including estimates of fish weights or species composition, shall not be submitted on electronic fish tickets.

(4) *Waivers for submission.* On a case-by-case basis, a temporary written waiver of the requirement to submit electronic fish tickets may be granted by the Assistant Regional Administrator or designee if he/she determines that circumstances beyond the control of a receiver would result in inadequate data submissions using the electronic fish ticket system. The duration of the waiver will be determined on a case-by-case basis.

(5) *Reporting requirements when a temporary waiver has been granted.* Receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets must submit on paper the same data as is required on electronic fish tickets within 24 hours of the date received during the period that the waiver is in effect. Paper fish tickets must be sent by facsimile to NMFS, West Coast Region, Sustainable Fisheries Division, 206-526-6736 or by delivering it in person to 7600 Sand Point Way, NE., Seattle, WA 98115. The requirements for submissions of paper tickets in this paragraph are separate from, and in addition to existing state requirements for landing receipts or fish receiving tickets.

15. In § 660.231, revise paragraphs (a), (b)(1), (b)(2), (b)(3), and (b)(4) introductory text to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(a) *Sablefish endorsement.* In addition to requirements pertaining to fishing in the limited entry fixed gear fishery (described in subparts C and E), a vessel may not fish in the sablefish primary season for the limited entry fixed gear fishery, unless at least one limited entry permit with both a gear endorsement for longline or trap (or pot) gear and a sablefish endorsement is registered for use with that vessel. Permits with sablefish endorsements are assigned to one of three tiers, as described at § 660.25(b)(3)(iv), subpart C.

(b) * * *

(1) *Season dates.* North of 36° N. lat., the sablefish primary season for the limited entry, fixed gear, sablefish-endorsed vessels begins at 12 noon local time on April 1 and closes at 12 noon local time on October 31, or closes for an individual vessel owner when the tier limit for the sablefish endorsed permit(s) registered to the vessel has been reached, whichever is earlier, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.60(c).

(2) *Gear type.* During the primary season, when fishing against primary season cumulative limits, each vessel authorized to fish in that season under paragraph (a) of this section may fish for sablefish with any of the gear types, except trawl gear, endorsed on at least one of the sablefish endorsed permits registered for use with that vessel.

(3) *Cumulative limits.* (i) A vessel fishing in the primary season will be constrained by the sablefish cumulative limit associated with each of the sablefish endorsed permits registered for use with that vessel. During the primary season, each vessel authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the sablefish endorsed permits registered for use with that vessel. If a vessel is stacking permits, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 sablefish endorsed permits may be stacked for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. Per regulations at § 660.12(a)(6), subpart C, all other groundfish landings are subject to per vessel trip limits. In 2015, the following annual limits are in effect: Tier 1 at 41,175 (18,677 kg), Tier 2 at 18,716 lb

(8,489 kg), and Tier 3 at 10,695 lb (4,851 kg). For 2016 and beyond, the following annual limits are in effect: Tier 1 at 45,053 lb (20,436 kg), Tier 2 at 20,479 lb (9,289 kg), and Tier 3 at 11,702 lb (5,308 kg).

(ii) If a sablefish endorsed permit is registered to more than one vessel during the primary season in a single year, the second vessel may only take the portion of the cumulative limit for that permit that has not been harvested by the first vessel to which the permit was registered. The combined primary season sablefish landings for all vessels registered to that permit may not exceed the cumulative limit for the tier associated with that permit.

(iii) A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips.

(iv) *Incidental Pacific halibut retention north of Pt. Chehalis, WA (46°53.30' N. lat.).*

From April 1 through October 31, vessels authorized to participate in the sablefish primary fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30' N. lat.) may possess and land up to the following cumulative limits: 110 lb (50 kg) dressed weight of Pacific halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional Pacific halibut in excess of the 110-pounds-per-1,000-pound ratio per landing. “Dressed” Pacific halibut in this area means halibut landed eviscerated with their heads on. Pacific halibut taken and retained in the sablefish primary fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis.

(4) *Owner-on-board requirement.* Any person who owns or has ownership interest in a limited entry permit with a sablefish endorsement, as described at § 660.25(b)(3), subpart C, must be on board the vessel registered for use with that permit at any time that the vessel has sablefish on board the vessel that count toward that permit's cumulative sablefish landing limit. This person must carry government issued photo identification while aboard the vessel. This person must review and sign a printed copy of the electronic fish ticket(s) or dock ticket, as described at § 660.213(d), unless this person qualified for the owner-on-board exemption. A permit owner is qualified for the owner-on-board exemption and not obligated to be on board the vessel registered for use with the sablefish-endorsed limited entry permit during the sablefish primary season if:

* * * * *

16. Section 660.232 is revised to read as follows:

§ 660.232 Limited entry daily trip limit (DTL) fishery for sablefish.

(a) *Limited entry DTL fisheries both north and south of 36° N. lat.* (1) Before the start of the sablefish primary season, all sablefish landings made by a vessel declared into the limited entry fixed gear fishery and authorized by § 660.231(a) to fish in the sablefish primary season will be subject to the restrictions and limits of the limited entry DTL fishery for sablefish specified in this section and which is governed by routine management measures imposed under § 660.60(c), subpart C.

(2) Following the start of the primary season, all sablefish landings made by a vessel declared into the limited entry fixed gear fishery and authorized by § 660.231(a) to fish in the primary season will count against the primary season cumulative limit(s) associated with the sablefish-endorsed permit(s) registered for use with that vessel. A vessel that is eligible to fish in

the sablefish primary season may fish in the DTL fishery for sablefish once that vessels' primary season sablefish limit(s) have been landed, or after the close of the primary season, whichever occurs earlier (as described at § 660.231(b)(1)). If the vessel continues to fish in the limited entry fixed gear fishery for any part of the remaining fishing year, any subsequent sablefish landings by that vessel will be subject to the restrictions and limits of the limited entry DTL fishery for sablefish.

(3) Vessels registered for use with a limited entry fixed gear permit that does not have a sablefish endorsement may fish in the limited entry DTL fishery, consistent with regulations at § 660.230, for as long as that fishery is open during the fishing year, subject to routine management measures imposed under § 660.60(c), subpart C. DTL limits for the limited entry fishery north and south of 36° N. lat. are provided in Tables 2 (North) and 2 (South) of this subpart.

(b) A vessel that is jointly registered, and has participated or will participate in both the limited entry fixed gear fishery and the Shorebased IFQ Program during the fishing year, is subject to crossover provisions described at § 660.60(h)(7), subpart C.

17. In § 660.311, add the definition of “sablefish landing” in alphabetical order to read as follows:

§ 660.311 Open access fishery—definitions.

* * * * *

Sablefish landing means a landing that includes any amount of sablefish harvested in the open access fishery.

* * * * *

18. In § 660.312:

- a. Revise paragraphs (a)(3) through (6);
- b. Redesignate paragraphs (b) and (c) as (c) and (d), respectively; and
- c. Add a new paragraph (b).

The revisions and additions read as follows:

§ 660.312 Open access fishery—prohibitions.

* * * * *

(a) * * *

(3) Transport catch that includes any amount of sablefish away from the point of landing before that catch has been sorted and weighed by federal groundfish species or species group, and recorded for submission on an electronic fish ticket under § 660.313(f). (If fish will be transported to a different location for processing, all sorting and weighing to federal groundfish species groups must occur before transporting the catch away from the point of landing).

(4) Mix catch from more than one sablefish landing prior to the catch being sorted and weighed for reporting on an electronic fish ticket under § 660.313(f).

(5) Process, sell, or discard any groundfish received from a sablefish landing that has not been accounted for on an electronic fish ticket under § 660.313(f).

(6) Upon commencing an offload of a sablefish landing at a landing site, fail to offload all groundfish on board the vessel at that landing site.

(b) *Recordkeeping and reporting.* (1) Fail to comply with all recordkeeping and reporting requirements at § 660.13, subpart C, including failure to submit information, or submission of inaccurate or false information on any report required at § 660.13(d), subpart C, and § 660.313.

(2) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings that include sablefish, containing all data, and in the exact manner, required by the regulation at § 660.13, subpart C, or § 660.313.

* * * * *

19. Section 660.313 is revised to read as follows:

§ 660.313 Open access fishery—recordkeeping and reporting.

(a) *General.* General reporting requirements specified at § 660.13(a) through (c), subpart C, apply to the open access fishery.

(b) *Declaration reports for vessels using nontrawl gear.* Declaration reporting requirements for open access vessels using nontrawl gear (all types of open access gear other than non-groundfish trawl gear) are specified at § 660.13(d), subpart C.

(c) *Declaration reports for vessels using non-groundfish trawl gear.* Declaration reporting requirements for open access vessels using non-groundfish trawl gear are specified at § 660.13(d), subpart C.

(d) *VMS requirements for open access fishery vessels.* VMS requirements for open access fishery vessels are specified at § 660.14, subpart C.

(e) *Retention of records.* Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter. All relevant records used in the preparation of electronic fish ticket reports or corrections to these reports, including dock tickets, must be maintained for a period of not less than three years after the date of landing and must be immediately available

upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS.

(f) *Electronic fish ticket.* The first receiver, as defined at § 660.11, subpart C, of a sablefish landing from an open access vessel is responsible for compliance with all reporting requirements described in this paragraph. When used in this paragraph, submit means to transmit final electronic fish ticket information via web-based form or, if a waiver is granted, by paper form. When used in this paragraph, record means the action of documenting electronic fish ticket information in any written format.

(1) *Required information.* All first receivers must provide the following types of information: Date of landing, vessel that made the landing, vessel identification number, name of the vessel operator, gear type used, receiver, actual weights of species landed listed by species or species group including species with no value, condition landed, number of salmon by species, number of Pacific halibut, ex-vessel value of the landing by species, fish caught inside/outside 3 miles or both, and any other information deemed necessary by the Regional Administrator (or designee) as specified on the appropriate electronic fish ticket form.

(2) *Submissions.* The first receiver must:

(i) Include, as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.15(c) and the vessel identification number. Use and maintain, for the purposes of submitting electronic fish tickets, equipment as specified at § 660.15(d).

(ii) Submit a completed electronic fish ticket for every landing that includes sablefish no later than 24 hours after the date of landing, unless a waiver of this requirement has been granted under provisions specified at paragraph (f)(4) of this section.

(iii) If electronic fish tickets will be submitted prior to processing or transport, follow these process and submittal requirements:

(A) After completing the landing, the electronic fish ticket information must be recorded immediately.

(B) Prior to submittal of the electronic fish ticket, the information recorded for the electronic fish ticket must be reviewed by the vessel operator who delivered the fish, and the port sampler if one is present.

(C) After review, the receiver and the vessel operator must sign a printed hard copy of the electronic fish ticket or, if the landing occurs outside of business hours, the original dock ticket.

(D) Prior to submittal, three copies of the signed electronic fish ticket must be produced by the receiver and a copy provided to each of the following:

(1) The vessel operator;

(2) The state of origin if required by state regulations; and

(3) The first receiver.

(E) After review and signature, the electronic fish ticket must be submitted within 24 hours after the date of landing, as specified in paragraph (f)(2)(ii) of this section.

(iv) If electronic fish tickets will be submitted after transport, follow these process and submittal requirements:

(A) The vessel name and the electronic fish ticket number must be recorded on each dock ticket related to that landing.

(C) Upon completion of the dock ticket, but prior to transfer of the offload to another location, the dock ticket information that will be used to complete the electronic fish ticket must be reviewed by the vessel operator who delivered the fish.

(D) After review, the first receiver and the vessel operator must sign the original copy of each dock ticket related to that landing.

(E) Prior to submittal of the electronic fish ticket, three copies of the signed dock ticket must be produced by the first receiver and a copy provided to each of the following:

- (1) The vessel operator;
- (2) The state of origin if required by state regulations; and
- (3) The first receiver.

(F) Based on the information contained in the signed dock ticket, the electronic fish ticket must be completed and submitted within 24 hours of the date of landing, as specified in paragraph (f)(2)(ii) of this section.

(G) Three copies of the electronic fish ticket must be produced by the first receiver and a copy provided to each of the following:

- (1) The vessel operator;
- (2) The state of origin if required by state regulations; and
- (3) The first receiver.

(3) *Revising a submission.* In the event that a data error is found, electronic fish ticket submissions must be revised by resubmitting the revised form electronically. Electronic fish tickets are to be used for the submission of final data. Preliminary data, including estimates of fish weights or species composition, shall not be submitted on electronic fish tickets.

(4) *Waivers for submission.* On a case-by-case basis, a temporary written waiver of the requirement to submit electronic fish tickets may be granted by the Assistant Regional Administrator or designee if he/she determines that circumstances beyond the control of a

receiver would result in inadequate data submissions using the electronic fish ticket system. The duration of the waiver will be determined on a case-by-case basis.

(5) *Reporting requirements when a temporary waiver has been granted.* Receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets must submit on paper the same data as is required on electronic fish tickets within 24 hours of the date of landing during the period that the waiver is in effect. Paper fish tickets must be sent by facsimile to NMFS, West Coast Region, Sustainable Fisheries Division, 206-526-6736 or by delivering it in person to 7600 Sand Point Way, NE., Seattle, WA 98115. The requirements for submissions of paper tickets in this paragraph are separate from, and in addition to existing state requirements for landing receipts or fish receiving tickets.

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